

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1104 of 2019

IN THE MATTER OF:

Bank of Baroda

...Appellant

Versus

Ratan Singh & Anr.

...Respondents

Present:

For Appellant : Mr. Pankaj Vivek, Advocate

O R D E R

22.10.2019 Having heard learned counsel for the Appellant and being satisfied with the grounds, the delay of 7 days in preferring the appeal is condoned.

I.A. No. 3287 of 2019 stands disposed of.

Mr. Ratan Singh, an employee filed an application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016' (for short, 'the I&B Code') for initiation of 'corporate insolvency resolution process' against 'Theme Export Private Limited (Corporate Debtor). It has been mentioned that gratuity amount and salary dues for the month of August, September, October and November, 2018 has not been paid and the partial salary for the twenty days of work in December, 2018 have not been paid. Though the 'Corporate Debtor' appeared but had not opposed and in the result the Adjudicating Authority (National Company law Tribunal), New Delhi Bench admitted the application under Section 9 of the 'I&B Code' on 29th August, 2019. Learned counsel for the Appellant submits that the application under Section 9 was filed with malicious intent and not for the

purpose of 'Corporate Insolvency Resolution'. Learned counsel further submits that the 'Corporate Debtor' was not agreeable to pay a meagre sum of Rs.2,48,000/- and could have settled the matter but the 'Corporate Debtor' but intentionally had not objected the same as the Appellant has taken the steps under Section 13(4) of the SARFAESI Act, 2002. Therefore, according to him, the application under Section 9 was not maintainable.

On hearing the learned counsel for the Appellant we find that the Bank has already ceased the account having declared the 'Corporate Debtor' as 'Non-Performing Assets'. It was for a said reason, the employee could not be paid.

In the facts and circumstances, we are not inclined to accept the submission that 1st Respondent filed the application with malicious intent or in collusion with the 'Corporate Debtor'.

The appeal is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

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