

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT) (Insolvency) No. 375 of 2020

IN THE MATTER OF:

Heavy Metal & Tubes Ltd.

201, 1st Floor, Ahwarth Building,
Ashram Road,
Usmanpura,
Ahmedabad- 380 013

...Appellant

Vs

Bank of Baroda

Dena Corporate Centre,
C-10, G-Block,
BandraKurla Complex,
Bandra (East)
Mumbai- 400 051

....Respondent

And,

Ashram Road Branch,
Dena Laxm9i Bhavan,
Ground Floor,
Ashram Road,
Navrangpura,
Ahmedabad- 380 009

Present:

**For Appellant: Mr. M.S. Vishnu Sankar, Mr. David Rao,
Advocates.**

For Respondent: None.

ORDER

04.03.2020 This Appeal has been filed by the learned Counsel for the Corporate Debtor against the Impugned Order, which has permitted the Respondent – Bank of Baroda accepting their Application to correct typographical errors in title of Affidavit typing the status of the Petitioner where the Petitioner is shown as “Operational Creditor” instead of “Financial Creditor”.

Learned Counsel for the Appellant states that the Impugned Order changes the nature of the proceeding from one of the Applicant being “Operational Creditor” to that of “Financial Creditor”. It appears that the Application was filed by Dena Bank which has now merged with the Bank of Baroda. Learned Counsel referred to page No. 38 where the title of Affidavit reads as:

“Affidavit in support of initiation of Corporate Insolvency Resolution Process by Operational Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016.”

(error emphasized)

2. Learned Counsel for the Appellant submits that the Impugned Order as has been passed could not have been passed as the rights of the Appellant get affected. We have gone through the Impugned Order and it appears to us that typing error or clerical error is being tried to be corrected. Adjudicating Authority looked into the contents of Cause Title and Form – I and held that there is typing error and allowed it to be corrected. An Application under Section 7 can never be filed by an “Operational Creditor” and the portion extracted above from the Affidavit makes this clear. It is apparent typing error seeing the Application filed in the whole.

3. The Application pending before the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad has not yet been admitted.

4. We find no reason to interfere with the Impugned Order.

The Appeal is dismissed. No orders as to costs.

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

[Justice Anant Bijay Singh]
Member (Judicial)

(Kanthi Narahari)
Member(Technical)

Akc/Md