

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1268 of 2019

IN THE MATTER OF:

Rajesh Narang

...Appellant

Versus

M/s LIC Housing Finance Limited & Anr.

...Respondent

Present:

For Appellant : Mr. Rajat Bhardwaj, Advocate.

For Respondent : None

ORDER

18.11.2019: 'M/s.LIC Housing Finance Limited' ('Financial Creditor') filed an Application under Section 7 of Insolvency and Bankruptcy Code, 2016 ("I & B" Code for short) for initiation of 'Corporate Insolvency Resolution Process' against 'M/s.Durha Vitrak Private Limited' ('Corporate Debtor'). The Adjudicating Authority ('National Company Law Tribunal), Principal Bench, New Delhi, by impugned order dated 08.11.2019 admitted the Application.

The main plea taken by the Appellant, Shareholder/Director of the 'Corporate Debtor' is that no opportunity was given to the Corporate Debtor to address arguments and impugned order of admission was passed on 08.11.2019 without hearing.

Similar plea has been taken by learned counsel for both the parties. From the impugned order dated 08.11.2019 we find that appearance of Mr.Rajat Bhardwaj, Advocate has been shown as the counsel for the Corporate Debtor. The Adjudicating Authority noticed the arguments advanced on behalf of the Corporate Debtor, at para 10, quoted below:

“ Learned Counsel for the Corporate Debtor has advanced numerous arguments to oppose the admission of the petition which are as under:-

- 1) The authorized representative of the Petitioner who had filed the present petition does not have the requisite power to initiate the resolution process under Section 7 of the Code. There is no board resolution placed on record and in absence of the same the alleged authorized signatory cannot be said to be authorized to initiate the present proceedings.*
- 2) As per the Code the Petitioner has to file strictly as per the format prescribed under Rule 4 of the Bankruptcy rules but the Petitioner has failed to comply with said requirement and therefore the Petition is defective.*
- 3) The Petitioner is alleged to have made the payment without there being any proof or supporting document in support of the same.*
- 4) The parties have disputed and there exist a pre-existing dispute between them. The Petitioner has initiated proceedings before the various courts and forums which are pending adjudication.*
- 5) The calculation is wrong and false and the same has been done with the sole intention to create fictitious entries without the consent of the Respondent”.*

There is nothing on the record to suggest that Mr.Rajesh Narang ('Appellant herein) was not present on that date though, plea has been taken by one of the 'Shareholder' Director of the Corporate Debtor that none appeared for the Corporate Debtor. Accordingly, such plea is rejected.

On merit also, we find that the total amount sanctioned & disbursed in various tranches from 26.03.2016 to 13.02.2017 by the Financial Creditor and default amount was of Rs.39,97,98,092.27/- (Rupees Thirty-Nine Crores Ninety-Seven Lakhs Ninety Eight thousand Ninety Two Twenty Seven paisa).

The aforesaid fact is not under dispute. In any case, the default amount exceeds Rs.1 Lakh. Even on merit, we find no ground to interfere with the impugned order of admission dated 08.11.2019.

The Appeal is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

Rk/sk