

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 389 of 2020

IN THE MATTER OF:

Vidarbha Industries Power Ltd.

...Appellant

Versus

Axis Bank Ltd.

...Respondent

Present:

For Appellant :

Mr. Abhijeet Sinha, Mr. Ankur Kashyap, Mr. Hasan Murtaza and Mr. Alok Kumar, Advocates.

O R D E R

04.03.2020 Axis Bank Ltd. has moved an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short the 'I&B Code') against Vidarbha Industries Power Limited ('Corporate Debtor' - Appellant herein). The matter is pending consideration and posted for hearing today, i.e., on 4th March, 2020. In the said case, the Appellant has moved a Miscellaneous Application (MA), which has not been ordered to be listed on 4th March, 2020 by the impugned order dated 13th February, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Court -5, Mumbai Bench, Mumbai.

Learned Counsel for the Appellant submits that the Adjudicating Authority should not admit the Application under Section 7 filed by the Axis Bank Ltd. without hearing the MA filed by the Appellant herein. Learned Counsel for the Appellant further submits that the Axis Bank Ltd. has moved before the Appropriate Forum and the matter is pending and the application under Section 7 of the I&B Code has been filed with malicious intent not for 'Resolution' or 'Liquidation' and thereby calls for penal action under Section 65 of the I&B Code.

In the present case, as we find that no specific order has been passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, we are not inclined to make any observation with regard to claims and counter claims of the parties. The Appellant is given liberty to raise the issue before the Adjudicating Authority as raised before this Appellate Tribunal as noted above. The Adjudicating Authority will consider the same in accordance with law after notice to the parties. However, in the meantime, if any order is passed by the Adjudicating Authority without considering the stand taken in the MA by the Appellant herein, it will be open to the Appellant to move before this Appellate Tribunal against such order.

The Appeal stands disposed of.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Ash/SR/RR