

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 126 of 2019

IN THE MATTER OF:

Srei Infrastructure Finance Ltd.

...Appellant

Versus

IDBI Bank Ltd. & Anr.

...Respondents

Present:

For Appellant : **Mr. Abhijeet Sinha, Mr. Diwakar Maheshwari and
Mr. Shreyas Edupuganti, Advocates**

For 1st Respondent: **Mr. Arun Kathpalia, Senior Advocate assisted by
Mr. Shantanu Chaturvedi and Ms. Charu Bansal,
Advocates**

For 2nd Respondent : **Mrs. Aarti Goyal Agarwal, Advocate**

O R D E R

11.02.2019 This appeal has been preferred by 'SREI Infrastructure Finance Limited' ('Financial Creditor') against the order dated 16th January, 2019 wherein the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata while noticed that the pleadings was completed and also noticed an order of this Appellate Tribunal dated 15th January, 2019 whereby the Adjudicating Authority was directed to decide the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short, 'I&B Code') in one or other way after notice to the concerned parties without hearing the Intervenor at the stage of admission. Learned counsel appearing on behalf of the appellant while submits that there are various grounds which were not brought to the

notice of the Adjudicating Authority and the resolution plan of the 'Corporate Debtor' in question is also the subject matter of the resolution plan in the case of 'corporate insolvency resolution process' is against the '*Essar Steel India Limited*' (ESIL), accepts that earlier we have directed the Adjudicating Authority not to hear any person at the stage of admission.

2. Mr. Arun Kathpalia, learned Senior Counsel appearing on behalf of 'IDBI Bank' (Financial Creditor) who had filed the application under Section 7 referred to the order dated 15th January, 2019 to suggest that he has no right to move this appeal. We are also of the view that this is not the stage for any party to intervene including the appellant. It is for the Adjudicating Authority to pass the order either admitting the application under Section 7 or rejecting the same and only thereafter the cause of action arises for one or other party including the appellant herein, if the appellant feels aggrieved against such order.

3. In the circumstances, we are not inclined to interfere with the impugned order but we allow the appellant to file three pages written submissions before the Adjudicating Authority bringing certain relevant facts to its notice after serving a copy of the same to the learned counsel for the 'Financial Creditor' and the 'Corporate Debtor'. The Adjudicating Authority may take into consideration, if it is relevant for the purpose of entertaining the application under Section 7 of the I&B Code.

4. We make it clear that the Hon'ble Supreme Court in '***M/s. Innoventive Industries Ltd. vs. ICICI Bank Ltd. - (2018) 1 SCC 407***' has already given

guidelines for admission of an application under Section 7, relevant portion of which has already been quoted in the order dated 15th January, 2019.

5. The appeal stands disposed of with aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

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