



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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Sanjeev Kumar Sharma Vs. SREI Equipment Finance Ltd.
Company Appeal (AT) (Insolvency) No. 909 of 2023
Date of NCLAT Judgement: August 17, 2023

Facts of the Case: -

The Present appeal is filled by the Mr. Sanjeev Kumar Sharma (hereinafter referred as 'Appellant') in the capacity of suspended director of Dadheech Infrastructures Pvt. Ltd. ("CD"), after being aggrieved by the impugned order dated 26.06.23 passed by the Adjudicating Authority.

Since 2007, the Appellant had a business relationship with the SREI Equipment Finance Ltd., (hereinafter referred as 'Respondent'). During the business relationship, several loan agreements were signed following which funds were transferred by the Respondent to the Appellant. Meanwhile, the Respondent was admitted into CIRP and was taken over by the Administrator. Claiming that an amount of ₹ 131.35 Cr. was due from the Appellant, Section 7 application (hereinafter referred as 'Main Petition') was filed by the authorized signatory on behalf of the Respondent showing date of default as 23.08.2021.

Later, a new authorized signatory of the Respondent was appointed by the Administrator to re-sign, re-verify and to make formal amendments to the main petition. The same was allowed by the AA on 01.07.2022. An IA was filed by the Appellant before the AA to decide on the maintainability of the main petition on the broad ground that despite the amendments made, the main application continued to remain defective, invalid and not maintainable. The matter came up for hearing before the AA and by order dated 26.06.2023, the main petition was allowed, and the Appellant was admitted into CIRP.

The Appellant aggrieved that tough hearing was done only in respect of IA application regarding the maintainability of the main petition and not for the main petition but surprisingly the order was passed on the main petition admitting the Appellant to the rigours of CIRP. Hence Appellant has invoked the appellate jurisdiction of the Tribunal.



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NCLAT Observations:-

The Appellate Tribunal after observing the submissions of both the parties held that the institution of the main petition and continuance of the proceedings on behalf of the Respondent has been done by duly authorized persons at all points of time and therefore the AA did not commit any error in finding the main petition to be maintainable and valid.

The Appellate Tribunal, while supporting the observation of AA, further held that debt and default above the threshold limit have been established, and there is sufficient reason for admission of main petition and admitting the Appellant into the rigours of CIRP. Further, the Tribunal stated that procrastinated pronouncement of the order has given fodder to the Appellant in making the absurd claims of having not been heard.

The Appellate Tribunal further observed that such unreasonable and explained delays in delivering verdicts are not desirable and the hyper technical and opportunistic pleas raised by the Appellant to stymie the admission of CIRP of the CD can't be countenanced either.

Order/Judgement: The Appellate Tribunal held that there are being no sufficient and plausible grounds made which warrant any interference with the impugned order of AA, there is no merit in the appeal.

Case Review: The appeal is dismissed. No costs.