



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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**Pradeep Madhukar More Vs Central Bank of India
Company Appeal (AT) (Insolvency) No.837 of 2023
Date of NCLAT Judgement: September 26, 2023**

Facts of the Case: -

The Present appeal is filled by M/s Pradeep Madhukar More, the suspended director of CD- Syntex Trading & Agency Pvt. Ltd., (hereinafter referred as 'Appellant') after being aggrieved by the order dated 09.06.23 passed by the AA.

The Central Bank of India (hereinafter referred as 'Respondent') granted term loan of ₹125 crore to Anjana Retail Infrastructure Pvt. Ltd. and ₹187 crore to RJ Texcot Pvt. Ltd. respectively. In 2018, these companies merged with the CD. A new term loan of ₹155 Crore was sanctioned to the CD and he defaulted on all three loans in September 2020 and was classified as a NPA in 29.12.20. Under the regulatory framework for Covid-19 issued by RBI, an One Time Restructuring Proposal ("OTR") was requested from the bank and the same was sanctioned by bank wide letter dated 21.05.21. Under the OTR proposal, the CD was granted an interest moratorium of 16 month in respect of the loans between 01.11.20 to 28.02.20 and for principal amount moratorium of 18 months was granted.

The CD subsequently defaulted on the OTR proposal on 31.03.22. The Respondent sent a default notice on 04.05.22 but no response was received from the appellant. In response, the Respondent filed an application under Section 7 of the IBC, seeking a total due amount of appx. ₹420 Cr. The AA issued a notice, and the appellant filed a reply. The Appellant also filed an application for the dismissal of the petition, claiming that the application was barred by Section 10A of the Code.

The Appellant insisted that the default under OTR proposal relates back to default prior to implementation of OTR proposal. The date of default is not 31.03.22, as mentioned in Application, but 30.09.20 which is covered under section 10A period. Hence, the application filed u/s 7 is barred by section 10A.

The Respondent asserted that by OTR proposal the original loan agreement stands amended and for any default committed thereunder the OTR proposal has to be looked into. As the default took place on 31.03.22, the application is not barred u/s 10A of the code.



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NCLAT Observations:-

The Appellate Tribunal held that the CIRP application is filed on the event of default dated 31.03.22 as per OTR proposal and not on the default under section 10A period.

The Appellate Tribunal further outlined that the contention of Appellant is completely baseless that both the declaration of NPA and defaults comes under the section 10A period. NPA in section 7 application was on account of clause 48 of the RBI circular dated 06.08.20, which downgraded the appellant in the event of any default committed under OTR and therefore no benefit can be made by the appellant by contending that, application was filled for default during the section 10A period.

Order/Judgement: The Appellant Tribunal held that the application filed by the respondent u/s 7 of the IBC not relates to any default committed during the Section 10A period. Instead, it was filed for a default that occurred on 31.03.2022 under the OTR proposal dated 21.05.2021.

Case Review: The Appeal is dismissed. No order as to costs.