

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1851 of 2024

IN THE MATTER OF:

**Navin Chandra Mishra
(Suspended Director of
CMR Lifesciences Pvt. Ltd.)**

...Appellant

Versus

Nand Kishore Palaha & Ors.

...Respondents

Present:

For Appellant : Mr. Sumesh Dhawan, Ms. Vatsala Kak and Mr. Shaurya Shyam, Advocates.

For Respondents : Mr. Navin Pahwa & Mr. Nayan Gupta, Sr. Advocates with Mr. Mohit D. Ram, Advocates for R-1 & R-2.

O R D E R
(Hybrid Mode)

27.09.2024: This Appeal has been filed against an Order dated 09.09.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Ahmedabad, Division Bench, Court – I), by which Section 7 Application filed by the Financial Creditor has been admitted.

2. The Financial Creditor has initially filed a winding up Petition being Company Petition 470/2016 which was transferred to the NCLT and the case was registered as TP/3(AHM)/2023. In the Section 7 Petition, Reply was filed and the Adjudicating Authority heard the Parties and by the Impugned Order has admitted the Section 7 Application.

3. Adjudicating Authority in the Impugned Order has found that the debt and default is proved and the Company Petition was filed at the time when limit was only Rs. 1 Lakh and further the Corporate Debtor has committed default exceeding to Rs. 1 Lakh.

4. The Argument of the Corporate Debtor that Civil Suit No. 193/2017 was filed by the Corporate Debtor which is pending was also considered and the Adjudicating Authority has held that the said pendency of the Suit shall not be a reason to not admit the Section 7 Application.

5. The contention which was raised by the Appellant is that the dispute was pending in the Civil Suit and the Section 7 Application ought not to have been admitted.

6. We have considered the submissions of the Counsel for the Appellant and perused the record.

7. Adjudicating Authority has already noticed the Civil Suit filed by the Corporate Debtor. It is to be noted that the said Civil Suit was filed subsequent to filing of the Company Petition in the High Court which stood transferred to the Adjudicating Authority.

8. We thus are of the view that the pendency of the Civil Suit was no reason for not proceeding to admit Section 7 Application, when the debt and default was proved, Adjudicating Authority has rightly admitted the Section 7 Application.

We do not find any error in the Order passed by the Adjudicating Authority. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)