

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Ins) No. 731 of 2019

IN THE MATTER OF:

K.R.V. Uday Charan Rao
Versus

...Appellant

Bank of India & Anr.

...Respondents

Present
For Appellant:

For Respondent: Mr. Ashish Rana and
Mr. Harshit Gaeg, Advocates for R-1.

O R D E R

16.09.2019 As no settlement has been made we want to hear the case on merit.

It is made clear that in absence of Interim stay, the Corporate Insolvency Resolution Process, proceeding will continue. Respondent may file reply- affidavit within a week and Rejoinder, if any, may be filed by the Appellant within a week thereof.

Post the case 'for orders' on **16th October, 2019.**

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

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NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 731 of 2019

IN THE MATTER OF:

K.R.V. Uday Charan Rao

.... Appellant

Vs

Bank of India & Anr.

.... Respondents

Present:

**For Appellant: Mr. Puneet Yadav and Mr. Tarun Arora,
Advocates.**

**For Respondent: Mr. Ashish Rana and Mr. Harshit Garg,
Advocates for Respondent No.1.**

ORDER

16.10.2019 The Appellant has challenged the order dated 8th July, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad, whereby the application under Section 7 of the Insolvency and Bankruptcy Code, 2016, filed by the Respondent Bank was admitted.

The main plea taken by the learned Counsel for the Appellant is that the claim was barred by limitation as the accounts of the Appellant were declared Non-Performing Assets (NPA) on 30th September, 2013. Reliance has been placed on decision of the Hon'ble Supreme Court in ***Gaurav Hargovindbhai Dave vs. Asset Reconstruction Company (India) Ltd. & Anr. (Civil Appeal No.4952 of 2019)*** and ***Sagar Sharma vs. Phoenix Arc Pvt. Ltd. (Civil Appeal No. 7673 OF 2019)***.

Learned Counsel for the Respondent Bank claimed that Corporate Debtor had shown the liability in its Balance Sheet and referring to page 30 of the reply affidavit showed the acknowledgment of the 'Corporate Debtor' that the amount is due and the said acknowledgment has been executed as an acknowledgment of the liability for the purpose of Section 18 of the Limitation Act, 1963.

In reply, learned Counsel for the Appellant submits that as per Section 18 of the Limitation Act, 1963, the acknowledgment should be within three years, which is not in the present case.

Heard learned Counsel for the parties. **Order reserved.**

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

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NATIONAL COMPANY LAW APPELLATE TRIBUNAL
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Company Appeal (AT) (Insolvency) No. 731 of 2019

IN THE MATTER OF:

K.R.V. Uday Charan Rao

...Appellant

Versus

Bank of India

...Respondent

Present:

For Appellant :

**Mr. Arun Kathpalia, Senior Advocate with Mr.
Sourabh Gupta and Mr. Puneet Yadav, Advocates**

O R D E R

18.07.2019 Learned counsel for the Appellant prays for and allowed to implead M/s. Sainath Estate Private Limited through IRP Dr. K.V. Srinivas as party Respondent No. 2. Learned counsel for the Appellant will make necessary corrections in the cause title of the appeal and other pages of the paper-books by 19th July, 2019.

Let notice be issued on the Respondents by Speed Post including the newly impleaded Respondent. Requisite along with process fee, if not filed, be filed by 22nd July, 2019.

Post the case 'for orders' on **21st August, 2019**.

During the pendency of the appeal, 2nd Respondent or any of its Directors or officers will not transfer, alienate, lease or create third party encumbrance on the moveable or immovable property. It may draw the amount from the account only for its day-to-day functioning and not for any other purpose nor transfer any amount from the account of the 'Corporate Debtor' to any of the Directors,

officers or its employee except for payment of salary and payment to debt of the 'Financial Creditor' or 'Operational Creditor'.

[Justice S.J. Mukhopadhaya]
Chairperson

[Kanthi Narahari]
Member (Technical)

/ns/gc

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 731 of 2019

IN THE MATTER OF:

K.R.V. Uday Charan Rao

.... Appellant

Vs

Bank of India & Anr.

.... Respondents

Present:

**For Appellant: Mr. Abhinav Vasisht, Senior Advocate with
Mr. Puneet Yadav and Mr. Sourabh Yadav,
Advocates.**

**For Respondents: Mr. Ashish Rana, Advocate for Respondent
No.1.**

O R D E R

21.08.2019 Mr. Ashish Rana, learned Counsel appears on behalf of 1st Respondent - Bank of India and submits that the Appellant has not settled the matter with the Bank.

Learned Counsel for the Appellant submits that the matter will be settled within four weeks. On his request, we allow three weeks' time to the Appellant to settle the matter, failing which, the Appeal may be heard on merit.

Counsel for the Appellant will serve a copy of paper book on learned Counsel for the Bank in course of the day, who may file reply affidavit by 12th September, 2019.

In the meantime, the 'Interim Resolution Professional' will collate the claims, if not yet collated and will constitute the 'Committee of Creditors', if

settlement is not reached by 11th of September, 2019 or the information of settlement is not given to the 'Interim Resolution Professional' by the Appellant by 12th September, 2019, about such the settlement/ or failure of settlement.

Post the case 'for orders' on **16th September, 2019.**

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

I.A. No. 2244 of 2019

IN

Company Appeal (AT) (Insolvency) No. 731 of 2019

IN THE MATTER OF:

K.R.V. Uday Charan Rao

...Appellant

Versus

Bank of India & Anr.

...Respondents

Present:

For Appellant :

**Mr. Arun Kathpalia, Senior Advocate with
Mr. Sourabh Gupta and Mr. Puneet Yadav, Advocates**

O R D E R

22.07.2019 Learned counsel for the Appellant submits that the Appellant intends to settle the matter with the respondents. In view of such submission, we allow the Appellant to settle the matter before the next date.

Post the case 'for orders' on **21st August, 2019** as ordered earlier.

In the meantime, 'Interim Resolution Professional' will not constitute 'Committee of Creditors' if not yet constituted. The interim order passed on 18th July, 2019 shall also continue.

I.A. No. 2244 of 2019 stands disposed of.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/ns/gc