

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 415 of 2022**

**IN THE MATTER OF:**

**Anil Kumar Malhotra**

**...Appellant**

**Versus**

**M/s. Mahindra & Mahindra Financial Services Ltd.,  
Through Authorised Representative Sushmita  
Garima & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Mr. Yajur Bhalla, Mr. Siddharth Srivastava, Sumeir  
Ahuja, Advocates

**For Respondent:** Advocate Gunjan Chauvey, for R-1  
Mr. Rajesh Kumar Mittal, Advocate for IRP, R-2.

**ORDER**  
**(Virtual Mode)**

**19.04.2022:** This Appeal has been filed against the Order dated 18<sup>th</sup> February, 2022 passed by the Adjudicating Authority (National Company Law Tribunal, Principal Bench at New Delhi) in C.P. (IB) -52(PB)/2021. By which Order, the Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') has been admitted by the Principal Bench, New Delhi.

2. Learned Counsel for the Appellant submits that there was no jurisdiction with the Principal Bench New Delhi to entertain the Section 7 Application. He has referred to Clause 24.12 of the Facility Agreement according to which it was provided the Courts at Mumbai has a jurisdiction in respect of any matter of the

Facility Agreement dated 15.12.2018 and he has relied on for the aforesaid purpose.

3. Section 60(1) of the Code provides for Adjudicating Authority for Corporate Persons. Section 60(1) is as follows:

*\*60. (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate persons located.*

4. Adjudicating Authority in relation to Insolvency Resolution shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate persons is located. The provisions of Insolvency and Bankruptcy Code, 2016 has to be given overriding effect by virtue of Section 238 of the Code. In view of the Section 60(1) read with Section 238 of the Code, the Appellant cannot rely on clause 24.12 to the Facility Agreement which provides jurisdiction to the Mumbai Courts. For filing Application under Section 7 of the Code, the provisions of Section 60(1) read with Section 238 of the Code shall be overriding clause 24.12 of the Facility Agreement to the above extent.

5. It is not denied that Corporate Debtor's registered office is situated at 'C-20, South Extension, Part-II, New Delhi' where the territorial jurisdiction to entertain such Application is with the NCLT, Principal Bench at New Delhi.

6. We thus are not persuaded to accept the submissions of Learned Counsel for the Appellant that Adjudicating Authority had no jurisdiction to entertain the section 7 Application. We thus do not find any error in the Order admitting the Section 7 Application on the ground of lack of jurisdiction as pressed before us. No other submission has been made.

The Appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Ms. Shreesha Merla]**  
**Member (Technical)**

Basant/nn