

2022 LiveLaw (SC) 423

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

DINESH MAHESHWARI; ANIRUDDHA BOSE; JJ.

CIVIL APPEAL NO. 3033 OF 2022; April 25, 2022

M/S INVENT ASSET SECURITISATION AND RECONSTRUCTION PVT. LTD. Vs. M/S GIRNAR FIBRES LTD.

Insolvency and Bankruptcy Code, 2016 - The provisions of the Code are essentially intended to bring the corporate debtor to its feet and are not of money recovery proceedings as such.

(Appeal under 62(1) of the Insolvency and Bankruptcy Code, 2016 arising out of the impugned judgment dated 18.11.2021 passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench, New Delhi in Company Appeal (AT)(Insolvency) 556 of 2020)

For Appellant(s) Mr. Harshvir Pratab Sharma, Sr. Adv. Mr. Anoop Prakash Awasthi, AOR Mr. P. Singh, Adv.

ORDER

Having heard learned counsel for the appellant and having perused the material placed on record, we are satisfied that the National Company Law Tribunal, Chandigarh Bench, Chandigarh and thereafter, the National Company Law Appellate Tribunal, Principal Bench, New Delhi have rightly taken the view that the application as moved by the present appellant under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') was barred by limitation.

The Appellate Tribunal has, *inter alia*, pointed out that as per the averments and allegations, right to sue accrued when the default occurred way back on 28.02.2002; and that the material on record does not evidence any acknowledgement of liability in terms of Section 18 of the Limitation Act, 1963.

Learned counsel for the appellant has attempted to refer to the documents towards restructuring of the loan and the alleged revival letter etc. but we are satisfied that the said documents cannot enure to the benefit of the appellant so far as the application under Section 7 of the Code is concerned. The view as taken by the Tribunal and the Appellate Tribunal appears to be a plausible view of the matter on the given set of facts and circumstances of this case and, therefore, we are not inclined to interfere.

Time and again, it has been expressed and explained by this Court that the provisions of the Code are essentially intended to bring the corporate debtor to its feet and are not of money recovery proceedings as such. The intent of the appellant had only been to invoke the provisions of the Code so as to enforce recovery against the corporate debtor. We find no fault in the Tribunal and the Appellate Tribunal having declined the prayer of the appellant.

However, in the interest of justice, it does appear appropriate and hence observed that if any other proceedings have been or are taken up by the appellant, the same shall be dealt with and proceeded on their own merits and in accordance with law.

Subject to the observations foregoing, this appeal stands dismissed.

All pending applications stand disposed of.