

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

Company Appeal (AT) (Insolvency) No. 422 of 2023

IN THE MATTER OF:

Holy Heights Infrastructures Pvt. Ltd.

...Appellant

Versus

K.V. Foundations India Ltd.

...Respondent

Present:

For Appellant: Ms. Pallavi Parmai, Advocate

For Respondent: Mr. Vibhor Garg, Keshav Tiwari, Advocates for R-1
Mr. Karan Gandhi, Advocate for RP

ORDER

10.04.2023: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 22nd February, 2023 by which Section 7 Application of I&B Code, 2016 has been admitted. The Adjudicating Authority by the Impugned Order has found the amount disbursed and reflected in the balance sheets as unsecured loan. The Adjudicating Authority admitted Section 7 Application after recording finding and considering the submissions made in paragraph 26. The categorical submission recorded that default in payment of the financial debt has been proved which is above the threshold limit.

3. When the Appeal was taken for consideration, the Appellant sought adjournment to take steps to settle the matter with the Financial Creditor. Today when the Appeal is taken, Learned Counsel for the Respondent submitted that offer made by Appellant is not acceptable.

4. Learned Counsel for the Appellant challenging the Order contends that the Appellant is ready to pay the simple interest at the rate of 12% whereas the Respondent has been demanding 12% compound interest.

5. The question as to whether the Financial Creditor is entitled for simple interest or compound interest is the question which shall be looked into by the Resolution Professional when the claims are collated. The said issue is not to be decided at the time of admitting the Section 7 Application at the stage when the debt and default has to be proved. No error has been committed by the Adjudicating Authority in admitting Section 7 Application. We make it clear that the question as to whether the Financial Creditor are entitled for simple interest or compound interest, the Resolution Professional after collating the claim and considering the other materials may form the opinion. Anyone aggrieved with the said opinion, is at liberty to approach the adjudicating authority for appropriate relief.

With these observations, we dismiss the Appeal.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn