

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No. 355 of 2022**

In the matter of:

Mr. Aashish Kadam & Anr.

....Appellants

Vs.

Nagpur Nagarik Sahakari Bank Ltd. & Anr.

...Respondents

For Appellants: Mr. Shikhil Suri, Ms. Nikita Thapar, Ms. Madhu Suri, Ms. Vikita Thapar, Ms. Mahima Aggarwal, Advocates.

**For Respondents: Mr. Sandeep Bajaj, Ms. Aakansha Nehra, Ms. Sakshi Digvijay, Advocates for R1.
Mr. Ravi Raghunath, Ms. Rathina Maravarman,
Ms. Aakash Lodha, Advocates for Intervenor.**

ORDER

(Through Virtual Mode)

21.04.2022: This Appeal has been filed against the order dated 15.03.2022 passed in C.P No.73/(IB)-MB-V/2021 by which order the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, has admitted the Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code" for short) filed by the Financial Creditor-‘Nagpur Nagarik Sahakari Bank Ltd.’.

2. When this Appeal was taken on 01.04.2022, Learned Counsel for the Appellant stated that he is ready and willing to make the payment of Rs.7,66,00,000/- by Monday and further adjournment was taken on 06.04.2022 to endeavor the Appellant to make the payment.

3. Today, when the matter was taken, Learned Counsel for the Appellant submits that he was not able to make the payment as noted in the orders passed by this Tribunal.

4. Learned Counsel for the Appellant proceeded to argue the Appeal on merits. The submission which has been raised by Shri Shikhil Suri is that the document by which Secured Cash Credit Facility was extended to the Corporate Debtor is not a stamped and on account of document having not been stamped, the said document could not have been relied on in passing of the order in Application under Section 7.

5. We have perused the impugned order. In para 7 of the impugned order, document executed by the Corporate Debtor has been noticed. One of the facts which has been noticed is that present is a case of mortgage by deposit of title deed. Even if the facility agreement was not stamped, there was other materials on the record which clearly prove the financial debt which was owed by the Appellant, hence, we do not find any error in the order of the Adjudicating Authority admitting the Application under Section 7. We, thus, are of the view that there is no merit in the Appeal and Appeal deserves to be dismissed.

6. Learned Counsel for the Appellant lastly contended that an opportunity of two weeks' more be granted to enable the Appellant to make the payment of Rs. Rs.7,66,00,000/- as was noticed in the order dated 01.04.2022.

7. We are of the view that in event, the Appellant is able to make the payment within two weeks from today, it will be open for the Appellant to make

an Application before the Adjudicating Authority who shall pass appropriate order on the said Application, if settlement, if any takes place. We further observe that in the event the payment is not made as directed, after two weeks the Committee of Creditors shall be constituted. If settlement is made, the Application submitted by the Appellant shall be considered by the Adjudicating Authority in accordance with the law.

8. With these observations, the Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

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

Anjali/nn