

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 1342 of 2022 &
I.A. No. 4107, 4165 of 2022

IN THE MATTER OF:

Shaikh Mohammed Tariq

....Appellant

Vs.

Aegis Forging Ltd.

....Respondent

Present:

**For Appellant: Mr. Abhinav Raghuvanshi, Mr. Ashutosh Shukla,
Advocates**

For Respondent:

ORDER

15.11.2022: Heard Learned Counsel for the Appellant.

This appeal has been filed against the order passed by the Adjudicating Authority rejecting Section 7 petition filed by the Appellant for initiation of CIRP.

The appellant's case is that on his personal guarantee the Creditor's investors gave some funds to the Corporate Debtor. The Appellant's further case is that on the basis of the said guarantee, arbitration proceedings were initiated and there is an award dated 11.11.2013 in favour of the Appellant which award has already been put into execution by the Appellant.

Adjudicating Authority after noticing the aforesaid fact has refused to admit Section 7 application.

Learned Counsel for the Appellant submits that the guarantee which was given by the Appellant is fully covered by Section 5 (8) (i) of the Code which was a financial debt.

Be that as it may, the fact that there is already an award to pay Cash Security of Rs. 3,64,58,785/- with interest, which award has already been put in execution by the Financial Creditor, this was reason good enough to refuse admission of Section 7 application. It has now been laid down by the Hon'ble Supreme Court in *Vidarbha Industries Power Ltd. vs Axis Bank Limited* that admission of Section 7 application is not obligatory merely on proof of debt and default.

The facts as has been noticed by the Adjudicating Authority, as noted above are sufficient to refuse admission of Section 7 application. We thus are of the view that the appeal deserves to be dismissed.

Appeal is dismissed accordingly.

**[Justice Ashok Bhushan]
Chairperson**

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

**[Mr. Barun Mitra]
Member (Technical)**

sa/nn