

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 140 of 2018

IN THE MATTER OF:

Pravinbhai Raninga

...Appellant

Versus

The Kotak Resources

...Respondent

Present:

For Appellant : **Mr. Jayant K. Mehta, Mr. Mohit D. Ram and Ms. Monisha Handa, Advocates**

For Respondent : **Mr. Rasesh Parikh and Ms. Dharita P. Malkan, Advocates**

O R D E R

23.04.2018 Learned counsel appearing on behalf of the appellant while referring to the 'Deed of Assignment of Debt' dated 25th October, 2017 (pages 202-203 – paragraph 4) submitted that the respondent - The Kotak Resources' cannot claim to be a 'Financial Creditor' within the meaning of Section 5(7) and (8) of the Insolvency & Bankruptcy Code, 2016. Further, according to him there is not debt due and apart from due amount in fact excess amount has been paid in favour of the respondent.

Mr. Rasesh Parikh, Advocate appears on behalf of the respondent. No further notice need be issued. Learned counsel for the appellant will serve a copy of the paper-book on him during the course of the day. He is allowed to file reply along with Vakalatnama within ten days. Rejoinder, if any, may be filed by the appellant within five days thereof.

Learned counsel for the appellant is allowed to implead the Corporate Debtor through Interim Resolution Professional as second respondent.

Let notice be issued on 2nd Respondent by Speed Post. Requisite alongwith process fee, if not filed, be filed by 24th April, 2018. If the appellant provides *e-mail* address of the respondent, let notice be also issued through *e-mail*. Dasti service is permitted.

Post the matter on 14th May, 2018.

In the meantime, Insolvency Resolution Professional (IRP) will ensure that the company remains on going and the salary/wages of the employees/workmen are paid on time and if any material is supplied during corporate resolution process, the payment must be paid to the supplier/creditor. If so necessary, the Insolvency Resolution Professional will take aid of (suspended) Board of Directors. The Bank having account of the corporate debtor will also cooperate with the Insolvency Resolution Professional to ensure compliance of this order.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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