

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

**Company Appeal (AT) (Insolvency) No. 261 of 2018**

**IN THE MATTER OF:**

**Cooperatieve Rabobank U. A. Singapore Branch**

**...Appellant**

**Vs**

**Mr. Shailendra Ajmera  
(Resolution Professional)**

**....Respondent**

**Present:**

**For Appellant: Mr. Arun Kathpalia, Sr. Advocate with  
Mr. Krishnendu Datta, Mr. Vividh Tandon and  
Ms. Shilpi Nair, Advocates.**

**For Respondent: Mr. Ramji Srinivasan, Sr. Advocate with  
Mr. Raunak Dhillon, Mr. Karan Khanna and  
Mr. Siddhant Sharma, Advocates.**

**O R D E R**

**11.07.2018:** The questions arises for consideration in this appeal are:

- (i) Whether the bill of exchange should be taken into consideration for determination of the status of Appellant as 'Financial Creditor'? Or
- (ii) The supply of goods for which bill of exchange was generated should be taken into consideration to decide status of Appellant as 'Operational Creditor'?

Learned counsel for the Appellant has relied on bill of exchange generated pursuant to 'Master Sales and Purchase Agreement' (page 44) particularly, the terms and conditions shown therein. Wherein it is stated that the sale of an Underlying Security by the Seller to the Bank is without recourse to the Seller if the Drawee does not pay the Underlying Security on the maturity date as stipulated on the respective request by reason of its financial condition and terms of release of payment to suggest that the amount disbursed to the Seller on behalf of the Corporate Debtor is for consideration for time value of the money.

On the other hand, according to learned counsel for the Respondent the Master Sales and Purchase Agreement applies on bills of exchange between the Seller and the Bank and has no relationship with the Corporate Debtor. If any purchase is made between the Seller and the Corporate Debtor, it is a separate transaction which cannot be correlated with Master Sales and Purchase Agreement, bill of exchange having reached between the Bank and the Seller. Learned counsel for the Respondent further submits that the debt, if any, owed by the Corporate Debtor is for receipt of good and thereby at best the Appellant can claim to be an Operational Creditor.

Post the matter as first case 'for admission' on **27<sup>th</sup> July, 2018**. The appeal may be disposed of on the next date.

In the meantime it will be open to the parties to submit short written submissions not more than three pages.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansilal Bhat]  
Member (Judicial)

*am/sk*