

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 03 of 2018

IN THE MATTER OF:

Rahul Gupta

...Appellant

Versus

Mahesh Madhavan & Anr.

...Respondents

Present:

For Appellant : **Mr. Anish R. Shah and Mr. Vijay Singh, Advocate**

For Respondents: **Mr. A.K. Mysamy, Ms. Shalini Kaul and
Mr. Chaman Lal Choudhary, Advocates**

O R D E R

15.03.2018 Appellant is the Director of 'M/s. Black N Green Mobile Solutions Pvt. Ltd.' He has challenged the order dated 8th December, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), Chennai, whereby and whereunder the 'corporate insolvency resolution process' has been initiated against the 2nd respondent company at the instance of 1st respondent – 'Mahesh Madhavan', who filed the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code').

2. Learned counsel appearing on behalf of the appellant submits that the claim of the 1st respondent is based on lease deed reached between the 1st respondent and one 'M/s. Universal Power Systems Pvt. Ltd.' and not with the 2nd respondent – 'Corporate Debtor'. However, he accepts that the 2nd

respondent – ‘Corporate Debtor’ was a party to the ‘Lease Agreement’ when it was signed i.e. on 3rd December, 2012.

3. It was next contended that the application under Section 9 filed by the 1st respondent was incomplete as they have not disclosed the ‘enforcement security interest’ amounting to Rs. 62 lakhs, which were required to be disclosed in terms of Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Form 5 (Part V). According to him, such disclosure is mandatory, which could have been taken into consideration by the Adjudicating Authority to reject the application being incomplete.

4. Learned counsel appearing on behalf of the 1st respondent prays for and allowed time to address the Appellate Tribunal on both the issues, particularly on the 2nd issue relating to ‘enforcement security interest’, which covers the total claimed amount including alleged default amount.

5. Post the case on 22nd March, 2018. The appeal may be disposed of at the stage of admission.

6. Until further orders, the interim order passed on 8th February, 2018 shall continue.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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