

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

**Company Appeal (AT) (Insolvency) No. 49 of 2018**

**IN THE MATTER OF:**

**State Bank of India**

**...Appellant**

**Vs.**

**Debashish Nanda  
(Resolution Professional for Miani  
Construction Equipment Pvt. Ltd.)**

**...Respondent**

**Present:**

**For Appellant: -           Mr. P.B.A. Srinivasan and Ms. Vidhi Gupta,  
Advocates**

**For Respondent: -       Mr. Ankit Sibal and Mr. Prashant Neal, Advocates**

**O R D E R**

**21.03.2018—**     *Prima facie*, we are of the view that the appellant cannot debit any amount from the ‘Corporate Debtor’s account’ after the order of moratorium, as it may amount to recovery amount in spite of the order of moratorium passed by the Adjudicating Authority in violation of Section 14 of the Insolvency and Bankruptcy Code.

However, it may be open to the ‘Financial Creditor’ to incorporate the interest against the appropriate head in a separate set of same account in terms with the ‘RBI Guidelines’, which should not be treated to be the amount debited for adjustment.

Further it appears that the Bank cannot freeze the account nor can prohibit the ‘corporate debtor’ from withdrawing the amount, as available on

the date of moratorium for its day to day functioning through Resolution Professional.

Heard the parties.

Post the matter for further hearing on 26<sup>th</sup> March, 2018.

In the meantime, it will be open to the appellant and the respondent to file additional affidavit.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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