

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

**Company Appeal (AT) (Insolvency) No. 242 of 2018**

**IN THE MATTER OF:**

**Francis John Kattukaran**

**...Appellant**

**Versus**

**The Federal Bank Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellant :                      Mr. Gaurav Agarwal, Mr. Varun Singh, Mr. Gaurav  
Nair and Mrs. P. Bhatnagar, Advocates**

**O R D E R**

**24.05.2018**            Learned counsel appearing on behalf of the appellant submits that the loan amount was sanctioned by letter dated 8<sup>th</sup> August, 2016 (page 259/Volume 2). The cash credit facility of Rs. Four Crores was given which is the subject matter. As per the said letter sanctioned loan amount of Rs. Four Crores was liable to be paid within a period of 12 months i.e. by 5<sup>th</sup> August, 2017. However, the 'Bank treated 31<sup>st</sup> January, 2017 as the date of default, closed the account of the appellant and in April, 2017 they declared the account as 'NPA' and notice was sent under Section 13(2) of the SARFAESI Act, 2002. It is submitted that a sum of Rs. 40 lakhs was also taken by the appellant but as by 31<sup>st</sup> January, 2017 the account was frozen, the appellant requested the Bank to adjust the amount from its Fixed Deposit of Rs. 69 Lakhs, which was lying with the respondent. In spite of the same, the Bank filed the application under Section 7 of the I&B Code on 17<sup>th</sup> August, 2017 showing 31<sup>st</sup> January, 2017 as the date of default. The Adjudicating Authority without taking into consideration the aforesaid fact, admitted the application.

Let notice be issued on the respondents by Speed Post. Requisites alongwith process fee, if not filed, be filed by 25<sup>th</sup> May, 2018. If the appellant provides *e-mail* address of the respondents, let notice be also issued through *e-mail*.

Post the case for 'admission (After Notice)' on 9<sup>th</sup> July, 2018.

In the meantime, Interim Resolution Professional (IRP) will ensure that the company remains on going and the manufacturing and production of the company do not suffer, payment of wages to the employees/workmen are made 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)

/ns/gc