

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

**Company Appeal (AT) (Insolvency) No. 279 of 2017**

**IN THE MATTER OF:**

**Madhukar Tulsi**

**...Appellant**

**Versus**

**Ajay Kumar Gupta & Ors.**

**...Respondents**

**Present:**

**For Appellant :**

**Shri Suresh Dhawan, Shri Parminder Singh  
and Shri Rishi Agrawala, Advocates**

**For 1<sup>st</sup> & 2<sup>nd</sup> Respondent:**

**Shri Sachin Jain, Advocate**

**O R D E R**

**23.11.2017** Learned counsel for the appellant submits that the respondents cannot be treated as a 'Financial Creditor' within the meaning of Section 5(7) read with Section 5(8) of the Insolvency and Bankruptcy Code, 2016 in view of the fact that the respondents initially made agreement to purchase flats and subsequently agreed and settle to get back the amount with 9% interest. According to the learned counsel for the appellant that at the moment the respondents agreed to get back the money with interest they may be treated as 'Creditor' but cannot claim to be a 'Financial Creditor' to trigger the Insolvency Resolution Process against the 'Corporate Debtor' to which the appellant is a Director.

Let notice be issued on the respondents.

Shri Sachin Jain, Advocate accepts notice on behalf of 1<sup>st</sup> and 2<sup>nd</sup> respondent. No further notice need to be issued on them. In the meantime, respondents may file a short reply by Monday i.e. 27<sup>th</sup> November, 2017.

Let notice be issued on 3<sup>rd</sup> respondent by Speed Post and through *e-mail*. Requisite along with process fee, if not filed, be filed by tomorrow i.e. 24<sup>th</sup> November, 2017. Dasti service is also permitted for Insolvency Resolution Process.

Post the matter on 30<sup>th</sup> November, 2017 as first case after fresh cases. The appeal may be disposed of on the next date.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member(Judicial)

/ns/uk