

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 2040 of 2024

IN THE MATTER OF:

Ganesh Ashok Nanaware

...Appellant

Versus

Manomay Ventures Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate.

For Respondents : Mr. Gupta, Advocate for R-2.

O R D E R
(Hybrid Mode)

07.11.2024: Learned counsel for the Appellant contends that the Adjudicating Authority has admitted Section 7 application filed by the Respondent which was founded on three MOUs entered between the parties, which was in nature of sale transaction of assets. The amount which is now being claimed as debt was the amount retained by the Appellant out of the larger amount of Rs.91 Crores for performance of certain obligations, which are delineated in the MOU between the parties. It is submitted that the debt was never financial debt. It is submitted that a suit has been filed for the same amount which is pending in the Bombay High Court as well as proceeding under Section 138 of Negotiable Instruments Act with regard to dishonoured cheques is also pending. It is submitted that the Adjudicating Authority has not correctly adverted to the nature of the transaction and erred in holding the transaction as financial debt relying on the letter which was written by the Appellant during the pendency of the proceeding for entering a settlement between the parties.

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Shri Gupta, learned counsel for the Respondent submits that the nature of the debt was financial debt and the Adjudicating Authority did not commit any error in admitting Section 7 application. He further submits that own showing of the Corporate Debtor indicates that they treated transaction as financial debt.

Submissions raised by learned counsel for the parties need consideration. Issue notice. Let Reply be filed by the Respondents within three weeks. Rejoinder be filed within two weeks thereafter.

List this Appeal on **19.12.2024.**

In the meantime, in pursuance of the impugned order CoC be not constituted. The IRP shall ensure that the Corporate Debtor is run as a going concern and construction, if any, shall continue with the assistance of the management and officers of the Corporate Debtor.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Archana/nn