

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 899 of 2021

In the matter of:

Bharat Bhushan Kumar

....Appellant

Vs.

Spaze Towers Pvt. Ltd. & Ors.

....Respondents

Presents

For Appellant: Mr. Harish Salve, Sr. Advocate alongwith Ms. Geetika Sharma, Advocates.

For Respondents: Mr. P. Nagesh Sr. Advocate alongwith Mr. Rishabh Jain and Mr. Harshal Kumar, for IRP, R-1.

Mr. Virender Ganda, Sr. Advocate alongwith Mr. Piyush Singh, Mr. Aditya Parolia, Ms. Aditi Sinha and Mr. Ayandeb Mitra, Advocates for R-2 to R-3.

Mr. Abhijeet Sinha, Mr. Piyush Singh, Mr. Aditya Parolia and Ms. Aditi Sinha, Advocates for R-4 to R-41.

Mr. Gaurav Katiyar, IRP in person.

ORDER
(Virtual Mode)

10.11.2021: Heard Learned Sr. Counsel Mr. Harish Salve appearing on behalf of the Appellant-*'Bharat Bhushan Kumar (Director of Suspended Board of Corporate Debtor) Farm No.1, Grand Westend Green, Rajokari, New Delhi-110038'*.

The Appellant is aggrieved and set aside the Order dated 28.10.2021 passed by the Learned Adjudicating Authority (National Company Law Tribunal, New Delhi, Court No. IV) in C.P. (IB) No.- 889/ND/2020.

Learned Sr. Counsel Mr. Harish Salve, appearing on behalf of the Appellant refer page nos. 105-106 of the Impugned Order from paragraph 29 onwards and submitted that the findings record by the Learned Adjudicating

Authority has given a finding so far default is concerned but has not given a finding about debt. Requirements of Section 7 of the Insolvency and Bankruptcy Code, 2016, was not fulfilled. This fact was opposed by the Learned Counsel for the Respondent.

Learned Counsel Sri P. Nagesh appears on behalf of Respondent No. 1- '*Spaze Towers Private Limited through Interim Resolution Professional Gaurav Katiyar*'.

Learned Counsel Mr. Virender Ganda appears on behalf of Respondent No. 2 and 3.

Learned Counsel Mr. Abhijeet Sinha appears on behalf of Respondent No. 4 to 41 and he opposed the submissions made on behalf of the Learned Counsel for the Appellant.

Since, all the Respondents have appeared so no formal notice be required.

Counsel for Respondent No. 1 is directed to file the Hard Copy of his Status Report in a sealed cover within two weeks. Registry is directed to accept it.

Learned Counsels for Respondent No. 2 to 3 and Respondent No. 4 to 41 are directed to file the Hard Copy of their Reply Affidavit within two weeks.

Hard Copy of Rejoinder, if any, may be filed by the Learned Counsel for the Appellant within one week thereafter.

List the matter 'For Admission (After Notice)' on **21st December, 2021** at the top of the list.

In the meanwhile, CoC may be constituted but the CoC will not take any perceptive steps in the matter till the next date of hearing i.e. 21.12.2021.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors. The persons who are working will perform their duties including the paid Directors. The person who is authorized to sign the bank cheques may sign cheques only after authorization of the 'Interim Resolution Professional' with counter signature of the 'Interim Resolution Professional' at the back side of the cheques. In such case, the Bank shall release the payment. The Interim Resolution Professional will place this order before the Banks, in which accounts of Corporate Debtor are maintained. The Bank Account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of Current Bills of the Suppliers, Salaries and Wages of the employees'/workmen, electricity bills etc.

[Justice Anant Bijay Singh]
Member (Judicial)

[Ms. Shreesha Merla]
Member (Technical)

ha/rr