

# INSTITUTE OF INSOLVENCY PROFESSIONALS

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Learning Curve-502

February 23, 2021

**The Adjudicating Authority is required to issue a limited notice to the Corporate Debtor as it is concerned only with the nature of debt viz. that there is a financial debt and default thereof, NCLAT held**

<b>CASE TITLE</b>	Mani Kumar Singh Vs. Alchemist Asset Reconstruction Company Ltd & Anr <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Insolvency) No. 111 of 2021
<b>DATE OF ORDER</b>	18.02.2021
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	-
<b>SECTION/REGULATION REFERRED</b>	Section 7 of IBC, 2016

## **Brief of the case:**

An appeal was preferred by a suspended Director of the Corporate Debtor against admission of application under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the impugned order dated 03.09.2020 passed by the NCLT, Allahabad Bench, admitting application under Section 7 with consequential order of appointment of Interim Resolution Professional (IRP) and imposition of Moratorium cannot be sustained as the impugned order has been passed without hearing the Corporate Debtor.

## **Decision:**

Hon'ble NCLAT, disposed off the appeal with following observations:

*“3...The Adjudicating Authority is required to issue a limited notice to the Corporate Debtor as it is concerned only with the nature of debt viz. that there is a financial debt and default thereof. From the impugned order, we find that the Adjudicating Authority has dealt with all aspects concerning debt and default as required for deriving satisfaction that the application was complete and there was debt and default on the part of the Corporate Debtor in respect of financial debt owed to the Financial Creditor. In fact, the Adjudicating Authority has also considered the effect of amendment introduced by Section 10A of the 'I&B Code' to ensure that the default has occurred before the cut-off date. In the given circumstances, it cannot be said that the Adjudicating Authority has observed Rules of Natural Justice in breach.”*



QR CODE FOR FULL ORDER/JUDGEMENT:

<sup>1</sup><https://nclat.nic.in/Useradmin/upload/412732705602e5990be952.pdf>