

INSTITUTE OF INSOLVENCY PROFESSIONALS

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Learning Curve-518

March 18, 2021

"The date of right to sue can be extended only when the debt is acknowledged by the Corporate Debtor within limitation of three years."

CASE TITLE	BS Krishan Vs. Stressed Assets Stabilization Fund SASF & Anr. ¹
CASE CITATION	COMPANY APPEAL (AT) (INSOLVENCY) NO.521 OF 2020
DATE OF ORDER	17.03.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	Vasudev R Bhojwani Vs. Abhyuda Cooperative Bank Ltd. & Anr. B.K. Education Services Pvt. Ltd. Vs. Parag Gupta & Associates
SECTION/REGULATION REFERRED	Section 7 of IBC

Brief of the case

The Appellant (Corporate Debtor) filed an appeal against the order dated 25.01.2020 passed by the National Company Law Tribunal Special Bench, Chennai, whereby NCLT admitted the Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 and initiated Corporate Insolvency Resolution Process against the Corporate Debtor. The Corporate Debtor has resisted the Application on two grounds that SASF has no locus to file the Application on behalf of the Financial Creditor and the Application is barred by limitation as the loan accounts have been declared NPA before 2001 and the Financial Creditor has not shown any acknowledgement which is within three years from the date of default.

Decision

Hon'ble NCLAT allowed the appeal with following observation:

"15. In the light of the aforesaid Judgement, we have considered the facts of this case, it is clear that the Corporate Debtor committed default and the loan account declared as NPA before 2001 and thereafter, there is no acknowledgement of debt within limitation of three years and it is clear that the Judgment/decreed passed by the DRT-II on 29.04.2019 cannot shift forward the date of default for the purpose of computing the period for filing an Application under Section 7 of the I&B Code. Thus, we hold that the Application under Section 7 of the I&B Code filed by the Respondent No. 1 on 23.01.2019 against the M/s L.S.P. Agro Ltd. (Corporate Debtor) is barred by limitation and was not maintainable"



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://nclat.nic.in/Useradmin/upload/18907291136051d7e149039.pdf>