

Learning Curve-482

January 25, 2021

Rule 7 does not empower the Adjudicating Authority to examine the financial statements annexed with the application. The moment, Adjudicating Authority is satisfied that there is a debt and a default has occurred, the application must be admitted unless it is incomplete.

CASE TITLE	Pondicherry Extraction Industries Pvt. Ltd. Vs. Bank of Baroda. ¹
CASE CITATION	Company Appeal (AT) (Ins) No. 471 of 2020
DATE OF ORDER	20.01.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	<i>Unigreen Global Pvt. Ltd.</i>
SECTION/REGULATION REFERRED	Section 10 of IBC

Brief of the case:

An appeal was preferred by the appellant Pondicherry Extraction Industries Pvt. Ltd. (Corporate Applicant) against the order dated 11/2/2020 passed by the Adjudicating Authority (NCLT, Division Bench-I, Chennai) whereby the application preferred by the appellant under section 10 of the Insolvency & Bankruptcy Code, 2016 (In brief I&B Code) in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules 2016 (in Brief the Adjudicating Authority Rules) has been rejected. Adjudicating Authority has analyzed the financial statements of the corporate applicant and held that there are discrepancies in financial statements.

Decision:

Hon'ble Appellate Tribunal set aside the order of NCLT and held that,

“14. Rule 7 provides the procedure for filing the application under Section 10 of I&B Code. It does not empower the Adjudicating Authority to examine the financial statements annexed with the application. Ld. Counsel for the respondent has placed reliance on the judgment of Unigreen Global Pvt. Ltd. There is no ratio of this judgment that Rule 7 of Adjudicating Authority Rules empowers the Adjudicating Authority to examine the documents annexed with the application under Section 10 of I&B Code.

.. We are of the view that ld. Adjudicating Authority exceeded its jurisdiction in analyzing the financial statements of the Corporate Applicant.”

¹ <https://ibbi.gov.in/uploads/order/b6479f07619ddc378623d3a5b7a3c1d1.pdf>