NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 215 of 2018

IN THE MATTER OF:

Gaurav Aggarwal   ...Appellant

Vs

Religare Finvest Ltd.   ....Respondent

Present:

    For Appellant: Present but appearance not marked.

    For Respondent: Mr. Sanjeev Singh and Ms. Anandita Singh, Advocates.

O R D E R

31.07.2018:   The Appellant – 'Mr. Gaurav Aggarwal' filed an application before the Adjudicating Authority for declaration that he is the personal guarantor and therefore, the order of moratorium will be also applicable to the personal property which belong to 'Mr. Gaurav Aggarwal'. The said application was rejected by the Adjudicating Authority by impugned order dated 23rd April, 2018 in view of the stand taken by the Respondent that the Appellant is a 'Co-Borrower', not a 'Personal Guarantor'.

2.   Learned counsel appearing on behalf of the Appellant referred to the demand notice dated 15.01.2018 issued by Respondent under Section 13(2) of 'The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002' (SARFAESI Act) to suggest that the said notice has been issued on both the Corporate Debtor and the Appellant – 'Mr. Gaurav Aggarwal'. In respect to the same, learned counsel appearing on behalf of the Respondent rightly pointed out that Mr. Gaurav Aggarwal was a Co-Borrower with the Corporate Debtor and for the said reason the Corporate Debtor has been shown as 'Applicant' and Mr. Gaurav Aggarwal and others have been shown as Co-applicants.

3.   There is nothing on record to suggest that Appellant – 'Mr. Gaurav Aggarwal' has given any personal guarantee to the 'Religare Finvest Limited' at the time of taking loan by 'Allied Strips Ltd.', therefore, the applicant cannot take advantage of the moratorium in respect to property owned by him but are covered under Section 13 of the SARFAESI Act, 2002.

4.   In absence of any merit, the appeal is dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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