

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 655 of 2018

IN THE MATTER OF:

Gaurav Hargovindbhai Dave

...Appellant

Versus

**Asset Reconstruction Company
(India) Ltd. & Anr.**

...Respondents

Present:

For Appellant :

**Mr. Mihir Thakore, Senior Advocate assisted by
Mr. Vishwas Shah, Mr. Bhura Mahajan, Ms. Manisha
Narsinghani, Mr. Simranjit Singh Virk and Mr.
Rajeev Kumar, Advocates**

O R D E R

26.10.2018 Learned counsel for the appellant submits that the ‘Debt Recovery Tribunal’ have already held that the assignment agreement was invalid, thus application under Section 7 was not maintainable at the instance of the respondent (Financial Creditor). Further according to him, if money claim is barred by limitation, it is open to the appellant to argue that there is no ‘debt’ in the eyes of law or in fact.

Let notice be issued on the respondents by Speed Post. Requisites along with process fee, if not filed, be filed by 29th October, 2018. If the appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*.

Post the case ‘for Admission (After Notice)’ on 4th December, 2018.

In the meantime, Interim Resolution Professional (IRP) will ensure that the company remains on going and the manufacturing and production of the company do not suffer, payment of wages to the employees/workmen are made on time and if any material is supplied during corporate resolution process, the payment must be paid to the supplier/creditor. If so necessary, the Insolvency Resolution Professional will take aid of (suspended) Board of Directors. The Bank having account of the corporate debtor will also cooperate with the Insolvency Resolution Professional to ensure compliance of this order.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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