

3. Learned counsel for the Appellant challenging the impugned order contents that in the application under Section 7 total debt claimed was Rs.1,33,68,915/- which also included the interest. It is submitted that in the Deed of Guarantee the amount of interest was also contemplated, hence, for computing the total debt interest is also to be looked into. The Adjudicating Authority without adverting to the above only referred to Principal Amount and held that application does not fulfil the threshold.

4. Learned counsel for the Respondent submits that there were other issues including limitation in the Section 7 application, which may be looked into by this Tribunal.

5. We have considered the submissions of learned counsel for the parties and perused the record.

6. The copy of application under Section 7 has been annexed alongwith the Appeal which indicate that the amount of Principal and Interest added is Rs.1.33 Crore i.e. beyond the minimum threshold required. Learned counsel for the Appellant has referred to Deed of Guarantee, which mention about the interest on default. We, thus, are of the view that for finding out threshold both amount Principal and Interest has to be computed. The Adjudicating Authority thus committed error in rejecting the application under Section 7 for not fulfilling threshold. So far as submission of learned counsel for the Respondent that there are other issues including limitation, that are the issues

which may be gone into by the Adjudicating Authority, when application under Section 7 is heard.

7. In result, we allow the Appeal. Set aside impugned order dated 23.11.2022 passed by the Adjudicating Authority and remit the matter to the Adjudicating Authority to hear the Section 7 application afresh. We make it clear that we are not expressing any opinion on the merits of the case, which may be looked into by the Adjudicating Authority in the Section 7 application.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn