

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 683 of 2023 &
I.A. No. 2279 of 2023

IN THE MATTER OF:

Sanjeev Gupta & Anr.

....Appellants

Vs.

Anishka Developers Pvt. Ltd.

....Respondent

Present:

For Appellant:

For Respondent: Mr. Shahan Ulla, Mr. Nikunj Mahajan, Advocates
Mr. Abhijeet Sinha, Mr. Anand M. Mishra, Mr. Jogesh
Gupta, Advocates

O R D E R

12.07.2023: This appeal has been filed against the order dated 24.03.2023 by which order the application filed under Section 7 has been dismissed on the ground that date of default falls between the period stated under Section 10A and the initiation of proceeding under the Code for the default is barred.

2. Learned Counsel for the Appellant submits that default was there even after the Section 10 A period which also required consideration. He submits that however without contesting this appeal on merits challenging the order dated 24.03.2023 appellant seeks liberty to withdraw this appeal to enable to file a fresh application under Section 7 on appropriate materials.

3. It goes without saying that in event the appellant is able to prove that default was subsequent to Section 10 A period, it shall be open for the court to consider and decide in accordance with law.

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4. We make it clear that we are not expressing any opinion on the merits of the claim of either of the parties whether the application is barred by Section 10A or not barred by Section 10A.

5. The appeal is allowed to be withdrawn with liberty aforesaid. It shall be open for the respondent to raise all objections including the objection that application is barred by Section 10A.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

sa/nn

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