

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 21794-21795 OF 2017

SUNRISE 14 A/S DENMARK ... Appellant (s)

Versus

RAVI MAHAJAN ... Respondent (s)

O R D E R

Heard learned counsel for the parties.

We are of the view that the order dated 28.07.2017 passed by the National Company Law Tribunal, Chandigarh, after referring to the facts of this case and the fact that the appellant was a Danish Company, ultimately found ample evidence of default in the debt that was owed. The petition was, therefore, admitted. The National Company Appellate Tribunal, by the impugned judgment and order dated 06.12.2017, set-aside the aforesaid judgment of the NCLT on the ground that the mandatory requirement of Section 7(3)(a), which included the filling up of a statutory form not having been done, and the application being made by an advocate and not by the party in person, allowed the appeal.

The present is the case of a financial creditor who

has moved the NCLT. In Macquarie Bank Limited Vs. Shilpi Cable Technologies Limited (2018) 2 SCC 674, we have since taken the view that, in the case of operational creditors, the petition filed by a foreign company need not observe such requirements of a statute which are impossible of compliance, namely, of getting a certificate from Indian financial institutions evidencing default in repayment of a debt. We also think that the petition filed by an advocate would be maintainable, as has been held in Macquarie Bank supra. We are of the view that the said judgment would apply in the case of financial creditors as well

We, therefore, set-aside the judgment of NCLAT and restore that of NCLT.

The appeals are allowed in the aforesaid terms.

.....J.
(ROHINTON FALI NARIMAN)

.....J.
(INDU MALHOTRA)

New Delhi,
Dated: 3rd August, 2018.

ITEM NO.51

COURT NO.9

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 21794-21795/2017

SUNRISE 14 A/S DENMARK

Appellant(s)

VERSUS

RAVI MAHAJAN

Respondent(s)

Date : 03-08-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MS. JUSTICE INDU MALHOTRA

For Appellant(s) Mr. K.V.Viswanathan, Sr. Adv.
 Mr. Manish Jha, Adv.
 Mr. Yohaann Limathwalla, Adv.
 Mr. Dheeraj Nair, AOR

For Respondent(s) Mr. Ajay Veer Singh Jain, Adv.
 Ms. Mamta Jain, Adv.
 Mr. Uday Ram Bokadia, Adv.
 Ms. Divya Garg, Adv.,
 Mr. Sonal Jain, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.
Pending applications, if any, shall stand disposed of.

(SHASHI SAREEN)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)