

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 312 of 2018**

**IN THE MATTER OF:**

**Mr. Brijesh Kumar Agarwal**

**...Appellant**

**Vs.**

**Punjab National Bank & Anr.**

**...Respondents**

**Present: For Appellant: - Mr. Sanchit Garga and Mr. Harsh Chopra,  
Advocates.**

**ORDER**

**05.07.2018—** This appeal has been preferred by the Director and Shareholder of M/s. Kunj Forgings (P) Ltd.- ('Corporate Debtor') against the order dated 17<sup>th</sup> May, 2018, whereby and whereunder the application under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") preferred by the Punjab National Bank- ('Financial Creditor') has been admitted.

2. Learned counsel for the Appellant submitted that the Bank has neither acted in terms of circular and guidelines issued by the Reserve Bank of India nor in terms of the Reserve Bank of India Act, but such ground cannot be accepted to reject the application preferred by the 'Financial Creditor' under Section 7 of the 'I&B Code', there being admitted default.

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3. Next, it was contended that the amount due is barred by 'limitation' but such submission cannot be accepted in view of the fact that there is a continuous cause of action. Even if it is accepted that Limitation Act is applicable, in such case Article 137 of Part II of the Limitation Act will be applicable whereunder three years' period from the date of right to apply accrued will be applicable. In the present case, the right to apply under Section 7 accrued to 'Punjab National Bank' on 1<sup>st</sup> December, 2016, when 'I&B Code' came into force. Before the same, it had no right to apply under Section 7 of the 'I&B Code'. Therefore, even if the Limitation Act is made applicable, the application being not barred by limitation, interference is not called for.

4. There being no merit, the appeal is dismissed. No costs.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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