

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 176 of 2018

IN THE MATTER OF:

Union Bank of India

...Appellant

Vs.

**Guruashish Construction Private
Limited & Ors.**

...Respondents

**Present: For Appellant: - Mr. Ramji Srinivasan, Senior Advocate
assisted by Mr. Sanjeev Sagar, Mr. Naveen Hegde and Mr.
Tushar Bhardwaj, Advocates.**

**For Respondents: - Mr. C.A. Sinha, Advocate for 3rd
Respondent. Ms. Ananaya Sachdeva, Advocate.**

O R D E R

15.05.2018— Whether for being member of the Committee of Creditors ('Financial Creditors') it is necessary for the claim of the 'Financial Creditor' should be matured. In other words, if claim of a 'Financial Creditor' is not matured whether such 'Financial Creditor' can be a member of the Committee of Creditors.

2. According to learned counsel for the Appellant, where the claim of the 'Financial Creditor' has not matured, he cannot claim to be a member of the Committee of Creditors. Particularly, in regard to the 1st Respondent, who is the Guarantor of 3rd Respondent (another 'Financial

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Creditor') the 1st Respondent having not invoked the guarantee and having not made any claim, he cannot be claim to be a 'Financial Creditor'.

3. Issue Notice. Mr. C.A. Sinha, Advocate accepts notice on behalf of the 3rd Respondent. No further notice need be issued to him. He may file reply affidavit within ten days. Rejoinder, if any, may be filed by the Appellant within five days thereof.

4. Let notice be issued on 1st and 2nd Respondents by speed post. Requisite along with process fee, if not filed, be filed by 16th May, 2018. If the Appellant provides the e-mail address of the 1st and 2nd Respondents, let notices be also issued through e-mail.

Post the appeal for admission on 9th July, 2018.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/uk