

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

**Company Appeal (AT) (Insolvency) No. 1065 of 2023**

**&**

**I.A. No. 3640 of 2023**

**IN THE MATTER OF:**

**Anand Gupta & Anr.**

**...Appellant**

**Versus**

**Vardhman Realtech Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant:** Mr. Tarun Singla, K.C. Joshi, Advocates

**For Respondent:**

**ORDER**

**16.08.2023:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 09<sup>th</sup> May, 2023 by which order the Application filed under Section 7 of I&B Code, 2016 has been rejected.

3. The Appellant has filed the Application under Section 7 claiming to be financial debt due and payable by the Corporate Debtor. The Adjudicating Authority took the view that a Letter of Intent was issued in which both the parties were Joint Venture Partners and there was no financial debt to enable the Appellant to proceed under Section 7 of the Code. It is noted that under Letter of Intent dated 09.03.2016 the Appellant has 19% shareholding of the Joint Venture Partners and the balance lay with the Corporate Debtor.

4. Learned Counsel for the Appellant submitted that the Adjudicating Authority while recording findings have also returned a finding in Paragraph 12(d) with regard to payment made by Ambaashree in relation to project which may affect the Appellant when the appropriate remedy is availed by the Appellant to protect his interest.

5. Having heard Learned Counsel for the Appellant, we are of the view that in so far as finding of the Adjudicating Authority that both the parties being a joint venture partners and Appellant has 19% shareholding, there was no financial debt hence the Application under Section 7 of the Code could not be entertained. We see no error. We however are of the view that observations made in the order in paragraph 12(d) of the order shall not come in the way of the Appellant when any remedy is availed by the Appellant for protecting the interest of the Appellant in accordance with law.

With these observations, we dismiss the Appeal.

**[Justice Ashok Bhushan]  
Chairperson**

**[Mr. Barun Mitra]  
Member (Technical)**

*Basant/nn*