

NATIONAL COMPANY LAW APPELLATE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

Comp. App. (AT) (Ins) No. 1086 of 2024 & I.A. No. 3921, 3922, 3923,
5036, 6920 of 2024

IN THE MATTER OF:

Krystal Stone Exports Ltd.

...Appellant

Versus

Stressed Assets Stabilization Fund & Anr.

...Respondent

Present:

For Appellants : Mr. Shashank Deo Sudhi, Aru Prakash, Reamnie Hooda, Amish Gupta, Adv.

For Respondent : Mr. Mohit Nandwani, Adv. for I.A. No. 6920 of 2024
Mr. SK Verma, IP
CMA SK Bhatt, CMA Kamal Deep Tyagi, Adv. for R2

ORDER

16.10.2024: This appeal is directed against the order dated 03.05.2024 by which an application filed under Section 7 of the Code, 2016 by Stressed Assets Stabilization Fund (Financial Creditor) against Krystal Stone Exports Ltd. (Corporate Debtor) has been admitted.

2. The appeal has been filed by the Corporate Debtor, namely, Crystal Stone Exports Ltd. through one of its directors Mr. B.D Agarwal who has been authorised by a board resolution dated 01.12.2023.

3. In the reply to the appeal, a preliminary objection has been raised about the non-maintainability of the appeal on the ground that it has been filed by the CD through its director who has been authorised by the board resolution dated 01.12.2023.

4. It is alleged that the Hon'ble Supreme Court in the case of Innoventive Industries Ltd. Vs. ICICI Bank & Anr., Civil Appeal No. 8337-8338 of 20217 had held that "According to us, once an insolvency professional is appointed to manage the company, the erstwhile directors who are no longer in management, obviously cannot maintain an appeal on behalf of the company. In the present case, the company is the sole appellant. This being the case, the present appeal is obviously not maintainable"

5. Faced with this averment in the reply, Counsel for the Appellant has submitted that this is a defect in the appeal and the same is not maintainable at the instance of the CD but he has submitted that defect can be cured by filing an application.

6. In this regard, Counsel for the Respondent has submitted that once the appeal has been filed it cannot be cured by any of the application because the question of limitation shall also arise. The present appeal per se is not maintainable.

7. In view of the aforesaid facts and circumstances, we are of the considered opinion that admittedly the appeal has been filed by the CD through its director on the basis of the board resolution dated 01.12.2023 and in view of the decision rendered in the case of Innoventive Industries Ltd. (Supra) the appeal at the instance of the CD against the order of admission passed under Section 7 of the Code is not maintainable.

8. Thus, the present appeal is hereby dismissed. No costs.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

[Mr. Indavar Pandey]
Member (Technical)

Sheetal/Ravi