

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No.1125 OF 2023**

In the matter of:

Laxmi Engineering Industries (Bhopal) Pvt. Ltd.

....Appellant

Vs.

Canara Bank

...Respondent

**For Appellant: Mr. Arvind Kr. Sharma, Mr. Aniteja Sharma,
Advocates.**

For Respondent:

ORDER

31.08.2023: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 28.07.2023 passed by the Adjudicating Authority (National Company Law Tribunal) Indore Bench, by which Application filed by the Canara Bank under Section 7 of the IBC has been admitted.

3. Learned Counsel for the Appellant contends that the Application is barred by time and he further submits that the Bank has approached several forums including the DRT. It is further submitted that the talks regarding OTS are still going on.

4. We have considered the submissions and perused the record.

5. In the present case, NPA was declared on 04.06.2018 and thereafter the Adjudicating Authority has noticed that in reply dated 29.10.2018, the Appellant has acknowledged the debt and thereafter OTS was submitted by the Appellant on 07.09.2021, 20.01.2022, 27.01.2022, 31.01.2022 and 18.02.2022. The Adjudicating Authority has come to the conclusion that the acknowledgment in the reply as well as OTS offer makes the Application within time. Application was filed on 20.12.2022. We have looked into the

acknowledgment and reply dated 29.10.2018 which was in the year 2018 itself and thereafter within three years there has been OTS proposal by the Appellant, hence, the Bank was clearly entitled for the benefit of Section 18 of the Limitation Act and the Adjudicating Authority has rightly held that Application was within time.

6. Insofar as the submission of the Appellant that Bank has approached the multiple forums including the DRT is concerned, it is well settled that litigation in the SARFAESI and DRT does not preclude the Bank to take specific remedy provided under Section 7, hence, the said submission does not help the Appellant.

7. As far as the last submission of the Appellant that the Corporate Debtor is taking steps for the OTS settlement, we only observe that in event any OTS is accepted, it shall be open for the Appellant to file an Application before the Adjudicating Authority for closing the settlement under Section 12A which may be considered in accordance with law.

8. With these observations, we dismiss the Appeal.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Anjali/nn