

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 385 of 2020

IN THE MATTER OF:

BishalJaiswal

Appellant

Vs.

Asset Reconstruction Company (India) Ltd. &Anr.

...Respondents

Present:

For Appellant: Mr. Sandeep Bajaj and Mr. Devansh Jain, Advocates

For Respondents: Mr. Abhirup Das Gupta, Mr. Ishaan Duggal and Ms. Bhawana Sharma Advocates for R-1.

Mr. Sanjeev Kumar, Ms. Anshul Sehgal, Advocates for R-2.

O R D E R
(Virtual Mode)

28.05.2021: In this matter after a preliminary hearing the bench passed an order on 25.09.2020 doubting the correctness of the majority judgment of the five members bench Judgment in V. Padamkumar Vs. Stressed Assets Stabilization Fund CA (AT) (Ins) No. 57 of 2020 decided on 12.03.2020. A five Members bench of this Appellate Tribunal vide judgment dated 22.12.2020 refused to adjudicate the question referred, stating that reference to the bench was itself incompetent. Against this Judgment dated 22.12.2020 Asset Reconstruction Company (India) Ltd. filed Civil Appeal No. 323 of 2021 before Hon'ble Supreme Court, Hon'ble Supreme Court has set aside the Judgment in V Padamkumar (Supra) so also the Judgment dated 22.12.2020 passed in BishalJaiswal. The operative portion of the Judgment is as under:-

35. On the facts of this case, the NCLT, by its judgment dated 19.02.2020, recorded that the default in this case had been admitted by the corporate debtor, and that the signed balance sheet of the corporate debtor for the year 2016-2017 was not disputed by the corporate debtor. As

a result, the NCLT held that the Section 7 application was not barred by limitation, and therefore, admitted the same. We have already set aside the majority judgment of the Full Bench of the NCLAT dated 12.03.2020, and the impugned judgment of the NCLAT dated 22.12.2020 in paragraphs 33 and 34. This appeal is, therefore, allowed, and the matter is remanded to the NCLAT to be decided in accordance with the law laid down in our judgment.

Ld. Counsel for the Appellant submits that in the light of the Judgment the Appeal may be fixed for hearing.

As per office notice the matter has already been fixed for hearing on 22nd June, 2021 therefore, no further order is required.

Let the matter be fixed for hearing on **22nd June, 2021.**

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

SC/md.