

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 644 of 2019

&

I.A. No. 2106 of 2019

IN THE MATTER OF:

**Darshan Gandhi, Ex-Director,
Lok Housing & Constructions Ltd.**

...Appellant

Versus

USV Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant :

**Mr. Darpan Wadhwa, Senior Advocate with
Mr. Aman Varma, Ms. Smriti Churiwal and Mr. Jaivir
K. Sidhant, Advocates**

For Respondents :

**Mr. P.B.A. Srinivasan and Mr. Avinash Mohpatra,
Advocates
Mr. Rishi Singh, Advocate for IRP
Mr. Sheelang and Mr. Debarshi Bhyan, Advocates for
'Accel Realtors Pvt. Ltd.'
Mr. Sushil Aggarwal, Advocate for Intervenor
Mr. Sunil Fernandez, Advocate**

O R D E R

02.12.2019 The question arises for consideration in this appeal is, what is the date of 'default' to count the period of limitation to file an application under Section 7 of the 'Insolvency and Bankruptcy Code, 2016' (for short, the 'I&B Code'). If it is since 2001, then in terms of the decision of the Hon'ble Supreme Court, it may be termed to be barred by limitation. On the other hand, if it is based on the decree passed on 9th December, 2017 by the Civil Court at Mumbai, then the question arises for consideration:

- (i) Whether there is any default occurred after the decree;

and

- (ii) Whether the initiation of ‘Corporate Insolvency Resolution Process’, for its realisation of the decretal amount, which otherwise may come under the provisions of Section 65 of the ‘I&B Code’, and that application was filed with the intention “for any other purpose and not for the purpose of resolution”.

Heard the parties in part.

Post the case ‘for further hearing’ on **4th December, 2019** before the 1st Bench.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

/ns/gc