

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

**Company Appeal (AT) (Insolvency) No.226 of 2023
& I.A. No.811 of 2023**

IN THE MATTER OF:

Ishan Singh

...Appellant

Versus

Spaze Towers Pvt. Ltd.

...Respondent

Present:

For Appellant: Mr. Arjun Syal, Mr. Shreyan Das and Mr. Rohit Kumar, Advocates.

For Respondent: Mr. Sumesh Dhawan, Ms. Vatsala Kak and Mr. Yash Srivastava, Advocates.

ORDER

01.09.2023: Heard learned counsel for the Appellant and learned counsel appearing for the Respondent. This Appeal has been filed against the order dated 22.11.2022 passed in I.A. No. 5671/ND/2022 which was filed by the Appellant. A Section 7 application has been filed by the Appellant before the NCLT, New Delhi, Court IV, in which Section 7 application I.A. No. 5671/ND/2022 was filed by the Appellant praying to take on record application of the Corporate Debtor filed under Section 13(4) of the Companies Act, 2013 read with Rule 30 of Company (Incorporation) Rules, 2014.

2. Learned counsel for the Appellant submits that the document which was sought to be brought on record was an application which was filed by the Corporate Debtor for shifting of registered office from NCT of Delhi to State of Haryana. Learned counsel for the Appellant submits that in proceedings

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under Section 7 orders passed in the proceedings under Section 13 of the Companies Act cannot be questioned, however, the documents may be relevant in Section 7 application which has to be looked into by the Adjudicating Authority.

3. Learned counsel for the Respondent opposing the submissions of learned counsel for the Appellant submits that in application under Section 7 only debt and default and territorial jurisdiction of the Adjudicating Authority has to be looked into and the document was not relevant and the Adjudicating Authority has rightly rejected the application.

4. We have heard learned counsel for the parties and perused the record.

5. The document which was sought to be placed by the Appellant on record was the application which was filed by the Corporate Debtor itself seeking for shifting of registered office from NCT of Delhi to State of Haryana before the Regional Director, Ministry of Corporate Affairs. We accept the submission of the Appellant that in proceeding under Section 7 orders passed in the proceedings under Section 13 of the Companies Act, 2013 cannot be questioned. Whether the documents have any relevance or not has to be considered by the Adjudicating Authority after the document is seen. The Respondent has full liberty to raise objection with regard to relevance of the document and to support its submission that it does not improve the case of the Appellant in any manner.

6. We, thus, are of the view that the Adjudicating Authority ought to have taken the document on record and thereafter examine the relevance of the document, if any, after hearing the parties. We are satisfied that the Adjudicating Authority erred in rejecting the application filed by the Appellant to take on record documents which was a document filed by the Corporate Debtor itself.

7. We, thus, are of the view that I.A. No. 5671/ND/2022 deserves to be allowed. The document be taken on record. We make it clear that we are not expressing any opinion on the worth of the document, which is to be looked into by the Adjudicating Authority and decided after hearing the parties. Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

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

**[Arun Baroka]
Member (Technical)**

Archana/nn