

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT)(Ins) No. 704 of 2019**

**IN THE MATTER OF:**

**Universal Solutions of America LLC.**

**...Appellant**

**Versus**

**The Travancore Cements Ltd.**

**...Respondent**

**Present For Appellant:            Though present, not marked appearance**

**O R D E R**

**10.07.2019**            The Appellant – ‘*Universal Solutions of America LLC*’ filed an application u/s 9 of the ‘Insolvency and Bankruptcy Code, 2016 (for short, ‘the I&B Code’) against M/s. The Travancore Cements Limited’ which having rejected by the Adjudicating Authority (National Company Law Tribunal), Division, Bench, Chennai on 22<sup>nd</sup> May, 2019 the present appeal has been preferred.    The Adjudicating Authority noticed that by letters dated 14<sup>th</sup> September, 2017 and on 9<sup>th</sup> October, 2017, the ‘Corporate Debtor’ intimated the Appellant (Operational Creditor) that it had supplied 1888.500 Metric Tonnes of Clinker without ‘letter of credit’, out of which, 1376.140 Metric Tonnes was having quality and operational problems, by which, the ‘Corporate Debtor’, has sustained loss of Rs.23,70,583/- for which the Board of Directors of the ‘Corporate Debtor’ passed a resolution to recover loss from the pending bills.

In view of the ‘existence if dispute’, the application u/s 9 of the ‘I&B Code’ was rejected.    Learned counsel appearing on behalf of the Appellant submitted that the aforesaid letters dated 14<sup>th</sup> September, 2017 and 9<sup>th</sup> October, 2017 were

not enclosed with the reply-affidavit filed by the 'Corporate Debtor'. The aforesaid letter dated 9<sup>th</sup> October, 2017 was produced by the Appellant and the other letters were filed to show that the 'Corporate Debtor' accepted the liability, which has not been noticed by the Adjudicating Authority.

However, we are not deliberating on such issue whether the 'Corporate Debtor' accepted the liability or not as we find that the 'Corporate Debtor' opposed the application u/s 9 of the I&B Code and the Adjudicating Authority noted from letters dated 14<sup>th</sup> September, 2017 and 9<sup>th</sup> October, 2017 that there was an 'existence of dispute' prior to issuance of Demand Notice u/s 8(1) of the I&B Code which was issued on 13<sup>th</sup> November, 2017.

For the reason aforesaid, we are not inclined to interfere with the impugned order dated 22<sup>nd</sup> May, 2019. However, the order dated 22<sup>nd</sup> May, 2019 passed by the Adjudicating Authority and the order passed by this Appellate Tribunal will not come in the way of the Appellant to move before the appropriate Forum for appropriate relief.

The appeal is dismissed with aforesaid observations.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice A.I.S. Cheema]  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)