

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 762 of 2018

IN THE MATTER OF:

Satec Envir Engineering (India) Pvt. Ltd.

...Appellant

Vs

Waaree Energies Ltd.

....Respondents

Present:

**For Appellant: Mr. Rahul Chitnis and Mr. Aaditya Pande,
Advocates.**

**For Respondents: Mr. Aman Raj Gandhi and Mr. Yash Badkur,
Advocates.**

ORDER

07.12.2018: The Appellant (Operational Creditor) filed an application under Section 9 of the I&B Code for initiation of Corporate Insolvency Resolution Process against 'M/s Waaree Energies Ltd.' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Mumbai Bench by impugned order dated 5th October, 2018 rejected the application on the ground of existence of dispute.

2. Learned counsel appearing on behalf of the Appellant while explaining the delay of 11 days in preferring the appeal submitted that the Corporate Debtor having accepted the dues, dispute raised prior to same cannot be taken into consideration.

3. From the record we find that in terms of one agreement purchase order was issued on 8th March, 2017 and purchase order was cancelled on 7th March, 2018. The Corporate Debtor disputed the claim of debt raised on 27th March, 2017, that is much prior to the demand notice issued by the Appellant. In view of the fact that Corporate Debtor has already raised a dispute on 27th March, 2017, we hold that the Adjudicating Authority rightly refused to entertain the application under Section 9.

4. In so far as subsequent acceptance by Respondent (Corporate Debtor) is concerned as they took plea that it was issued on wrong premises, these issues cannot be determined by the Adjudicating Authority. We hold that the Adjudicating Authority rightly did not determined the question of claim and counter claim of the parties.

5. In the circumstances, while we condone the delay of 11 days in preferring the appeal, in absence of any merit we dismiss the appeal.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc