

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

**Company Appeal (AT) (Insolvency) No. 690 of 2019**

**IN THE MATTER OF:**

**Anil Kumar Jain**

**...Appellant**

**Versus**

**Vardhman Roller Flour Mills Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**

**Mr. Manoj Kumar Garg, Advocate**

**O R D E R**

**08.07.2019**        The Appellant – Anil Kumar Jain filed an application u/s 9 of the ‘Insolvency & Bankruptcy Code, 2016’ (for short, ‘the I&B Code’) against ‘Vardhman Roller Flour Mills Pvt. Ltd. The Adjudicating Authority (National Company Law Tribunal), New Delhi Bench rejected the application for the grounds mentioned in the impugned order dated 15<sup>th</sup> May, 2019, which are discussed below.

2.        The Adjudicating Authority noticed that the Appellant is also the Director of the ‘Corporate Debtor’ and the amount disbursed by him by way of loan and it has not supplied the goods nor given any services, therefore, the application u/s 9 of the I&B Code was not maintainable.

3.        Learned counsel appearing on behalf of the Appellant submits that apart from the fact that the Appellant has disbursed loan amount to the extent of Rs.37,50,090.04, which was to be returned without interest, the Appellant was a paid Director and has not been paid 23 months remuneration of Rs. 23,00,000/-. Therefore, according to him for non-payment of remuneration of Rs. 23,00,000/-the application u/s 9 was maintainable.

4. However, we are not inclined to interfere with the impugned order as Notice u/s 8 was issued by the Appellant on the loan amount given by the Appellant. The issue was raised on the ground that the loan amount of Rs.37,50,090.04 from the 'Corporate Debtor' is due and in addition to that he has claimed the amount of Rs. 23,00,000/- towards remuneration. However, the Adjudicating Authority has found that there is no documents on record to show that the Appellant is entitled to remuneration. The Adjudicating Authority also noticed that the Appellant has filed an application u/s 241 and 242 against the members of the 'Corporate Debtor' and dispute was pending since 2016.

5. In view of above, we hold that the joint application as a 'Financial Creditor' was not maintainable u/s 9 of the I&B Code and the Adjudicating Authority has rightly rejected the application. However, this order will not come in the way of the Appellant to file a fresh application in accordance with law.

The appeal is disposed of with aforesaid observations. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc