

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No.662 of 2018

IN THE MATTER OF:

Ravi GoyalAppellant

Vs.

Butterfly AppliancesRespondent

Present :

**For Appellant: Ms. Sonali Karwasra, Mr. Mayank Badoni and
Mr. Rajat Sabu Thoppil, Advocates.**

For Respondents: Ms. Udita Singh, Advocate for OC.

O R D E R

20.03.2019 – The main plea taken by the Appellant is that without serving demand notice under Section 8(1) and notice of admission of application, the impugned order dated 1st August, 2018 was passed by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench ex-parte. The Appellant had no knowledge about the certified copy of the impugned order passed on 1st August, 2018.

2. Learned Counsel for the Respondent pointed out that the Respondent has enclosed the copy of the tracking report of India Post to show that the demand notice under Section 8(1) was served on the Corporate Debtor on 23rd March, 2018.

3. Learned Counsel for the Appellant tried to dispute such submission, but we are accepting the submission made on behalf of the Respondent as the Report of India Post, the Department of Post, Dak Bhawan, Sansad Marg, New Delhi, shows service of notice.

Contd...2/-

4. So far as notice issued by the Adjudicating Authority is concerned, learned Counsel for the Respondent has brought to our notice that the Adjudicating Authority asked the Respondent to serve the notice. Even, if we accept that the notice should have been issued by the Adjudicating Authority and should not have directed the Respondent to serve it, the remand of the case will be futile in the absence of any infirmity in the impugned order. In the circumstances, in absence of any merit, and as remand of the case will be futile and as we find that the application under Section 9 filed by Respondent was complete and there is a default and demand notice under Section 8(1) having served, we are not inclined to interfere with the impugned order dated 1st August, 2018, as corrected on 9th August, 2018. The appeal is dismissed. No cost.

[Justice S. J. Mukhopadhyaya]
Chairperson

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