

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 393 of 2018

IN THE MATTER OF:

Grasim Industries Ltd.

...Appellant

Vs

Spentex Industries Ltd.

...Respondents

Present:

For Appellants: Mr. Sanjeev Kumar, Mr. Abhishek Kisku, Mr. Abhishek Goyal and Mr. Anshul Sehgal, Advocates.

For Respondents: Ms. Purti Marwaha Gupta, Ms. Henna George and Mr. S. K. Thakur, Advocates.

ORDER

24.07.2018: The Appellant – ‘M/s Grasim Industries Ltd.’ filed application under Section 9 for initiation of Corporate Insolvency Resolution Process against Respondent – ‘Spentex Industries Ltd.’ (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), New Delhi by impugned order dated 14th June, 2018 rejected the claim on the ground of existence of dispute. It is not in dispute that the demand notice under Section 8(1) was issued by the Appellant on 28.6.2017, which was replied by the Corporate Debtor disputing the claim.

2. So far as existence of dispute is concerned, learned counsel for the Respondent referred to letter dated 5th February, 2016 written by ‘Spentex Industries Ltd.’ to the Managing Director of the Appellant Company sent by email as also by speed post, wherein they have raised claim towards accrued discount amount, pending credit notes and pending claims towards supply of deteriorated material. At clause 2 of the claim, the Corporate Debtor claimed amount towards quality claim for supply of inferior/poor/second grade material for material supplied during the year 2014-15 and alleged that amount is pending.

3. Learned counsel appearing on behalf of the Appellant submits that the said letter was replied by the Operational Creditor and the claim was settled, which the Corporate Debtor also accepted by their letter dated 19th August,

2016. From the said letter, it appears that the Appellant is referring to the dispute relating to quality claim one relating to 'barre in fabric' and another relating to 'hard ends in fibre' and informed that the Grasim technical team visited the plant of Corporate Debtor and discussions and mutual agreement with the team of the Corporate Debtor settled the claim for Rs.677,000/-. In reply they informed 'Thank you very much'.

4. Learned counsel appearing on behalf of the Respondent submits that the Appellant is making wrong statement by stating that the claim was settled.

5. On hearing the parties and perusal of record, we find that there existed a dispute relating to quality of products. The other question required to be determine is that whether said dispute was settled between the parties or not, is a matter which cannot be decided. In a petition under Section 9 of I&B Code it can be decided only by a court of competent jurisdiction.

6. We accordingly hold that the Adjudicating Authority has rightly rejected the application under Section 9. However, we make it clear that it will be open to the Appellant to move before an appropriate forum for appropriate relief. In such case, competent court may decide the claim uninfluenced by order passed by the Adjudicating Authority or by this Appellate Tribunal.

7. The appeal is dismissed. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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