

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1447 of 2019

IN THE MATTER OF:

Ramesh Murji Patel

...Appellant

Vs

Aramex India Pvt. Ltd. & Anr.

...Respondents

Present:

**For Appellant: Mr. Narender S. Yadav and Mr. Abhishek Yadav,
 Advocates.**

For Respondents:

ORDER

16.12.2019: ‘Aramex India Pvt. Ltd.’ (Operational Creditor) filed application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘I&B Code’) pursuant to which by impugned order dated 22nd October, 2019 the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench –IV initiated Corporate Insolvency Resolution Process against ‘Salelink Ecom Private Limited’ (Corporate Debtor). Appellant has challenged the same.

2. Learned counsel appearing on behalf of the Appellant submitted that the Operational Creditor was no obliged to honour any consignment handed over to the Operational Creditor once the credit limit of Rs.1 Lakh was exhausted. Any amount in excess of the said sum of Rs.1 Lakh, which was the credit limit in terms of the Client Services Agreement dated 14th July, 2016 was at the risk of the Operational Creditor and the Corporate Debtor cannot be held responsible for the same.

3. However, such submission cannot be accepted as it is not disputed that the debt is payable to the Operational Creditor, which is more than Rs.1 Lakh and there is default in making payment.

4. Learned counsel for the Appellant then submitted that the application under Section 9 was not signed by the authorised person as the Authorisation was done in the year 2013 by the Operational Creditor. According to him such 2013 authorization would not be justified for filing an application under Section 9 as Insolvency and Bankruptcy Code has come into force since 1st December, 2016.

5. However, such submission cannot be accepted as Authorisation Letter, even if, issued prior to the enactment of I&B Code can be looked into for purpose of entertaining an application under Section 7 or 9 of the Code.

6. We find no merit in this appeal. It is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

am/gc