

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 476 of 2019

IN THE MATTER OF:

B. Karthikeyan

...Appellant

Versus

Nonstop Courier & Cargo Pvt. Ltd.

...Respondent

Present:

For Appellant : Mr. S. Ramajayam, Advocate

O R D E R

03.05.2019 The Appellant filed an application u/s 9 of the Insolvency and Bankruptcy Code, 2016 (for short, the 'I&B Code') against 'M/s. Nonstop Courier and Cargo Private Limited' which has been rejected by order dated 14th March, 2019 by the Adjudicating Authority (National Company Law Tribunal), Division Bench, Chennai. Learned counsel appearing on behalf of the Appellant submits that the respondent failed to refund the deposit amount of Rs. 2.50 Lakhs deposited by the Appellant with the 'Corporate Debtor'. It is submitted that the aforesaid amount of Rs. 2.50 Lakhs deposited to get franchisee rights over Alwarpet and T. Nagar branches of 'M/s. Nonstop Courier and Cargo Private Limited'.

2. From the aforesaid submission, it is clear that the Appellant has neither supplied any goods nor provided any services and it has only deposited money for Franchisee rights and as such it cannot be termed as 'Operational Creditor' in terms of Section 9 of the I&B Code. In view of the matter the application under Section 9 being not maintainable, we are not inclined to interfere with the

impugned order dated 14th March, 2019. However, we are not expressing any opinion as to whether in the facts and circumstances of the case the Appellant can claim to be a 'Financial Creditor' for initiation of proceeding u/s 7 of the I&B Code.

The appeal is dismissed with aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc