

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 488 of 2018

IN THE MATTER OF:

Speculum Plast Pvt. Ltd.

...Appellant

Vs

PTC Techno Pvt. Ltd.

....Respondent

Present:

For Appellant: Mr. Kanti Mohan Rustagi and Mr. Niladree Chatterjee, Advocates.

For Respondent: Mr. Dhruv Gupta, Advocate

ORDER

01.11.2018: This appeal has been preferred by 'M/s Speculum Plast Pvt. Ltd.' against order dated 26th July, 2018 passed by Adjudicating Authority (National Company Law Tribunal), New Delhi Bench which reads as follows:

“ORDER

Ld. Counsel for the Operational Creditor has placed reliance on the decision of the Hon'ble NCLAT in the matter of Company Appeal No. (AT) (Insolvency) No. 122/2017 whereby it has been observed that the Limitation Act is not applicable to the Code and in any event the cause of action accrues only on the date of notification of the Code.

Ld. Counsel submits that this petition having being filed in 2017 is therefore within the limitation. The present case along with other 3 other connected matter on the point are under adjudication before the Hon'ble Apex Court. Judicial propriety demands that the decision of the Hon'ble Apex Court be awaited as the matter is under consideration.

To come up on 28th August, 2018.”

2. Learned counsel appearing on behalf of the Appellant submits that in the appeal preferred by B.K Educational Services Pvt. Ltd. vs Parag Gupta and Associates, Civil Appeal No. 23988 of 2017 and analogous case, the Hon'ble Supreme Court by judgment dated 11th October, 2018 held that Limitation Act has in fact been applied from the inception of the Insolvency and Bankruptcy Code.

3. In the aforesaid background, instead of making any observation on the merit or claim and counter claim of the parties, we direct the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench to consider the application under Section 9 of the I&B Code preferred by M/s Speculum Plast Pvt. Ltd. (Appellant) against M/s PTC Techno Pvt. Ltd. after hearing the parties on an early date.

4. Appeal stands disposed of with aforesaid observation and direction. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

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