

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.283 of 2020

IN THE MATTER OF:

Patel Integrated Logistics Ltd.

...Appellant

Versus

Overnite Express Ltd.

...Respondent

**For Appellant: Shri Rohan Thawani and Shri Iqram Singh,
Advocates**

**For Respondent: Shri Abhishek Anand, Shri Viren Sharma and Shri
Kunal Godhwani, Advocates (RP)**

O R D E R
(Virtual Mode)

18.01.2021 This Appeal has been filed against Impugned Order dated 24th January, 2020 passed by The Adjudicating Authority (National Company Law Tribunal, New Delhi Bench) in (IB)-314(ND)2020 which Application under Section 9 was filed by the Appellant as Operational Creditor. The Impugned Order (Annexure A-1 – Page 34) reads as under:-

“(IB)-314(ND)2020 is a fresh petition which has been filed based on the alleged operational debt.

It is observed that earlier also a petition was filed on the same cause of action, being IB-943/2019. The same was withdrawn on 22nd July 2019 with the specific submission that all claims had been settled in full satisfaction.

Given the fact that the aforesaid IB-943/2019 was withdrawn, another petition on the same cause of action is not maintainable even though Ld. Counsel submits that they had not received any amount pursuant to the alleged compromise.

Petition is not maintainable and is dismissed.”

The learned Counsel for the Appellant submits that although earlier claim was withdrawn no amount as such was received by the Appellant.

Advocate Shri Abhishek Anand appears on behalf of Respondent as Counsel for Resolution Professional. He states that the Respondent – Corporate Debtor is already under Corporate Insolvency Resolution Process (CIRP - in short) as one Financial Creditor had filed Application under Section 7 of Insolvency and Bankruptcy Code, 2016 as CP(IB)2240(ND)2019 in the matter of “Hi Tech Resort Management Ltd. vs. Overnite Express Ltd.” and the Application was admitted on 2nd March, 2020. The learned Counsel for the Resolution Professional submits that as CIRP has already started, the Appellant may make a claim which Resolution Professional will one way or the other consider as per provisions of the law.

The Appellant is permitted to file the claim with the Resolution Professional even if there is delay and the Resolution Professional may consider the same, one way or the other, according to law.

For the above reasons, the Appeal stands disposed with observations as above.

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

[V.P. Singh]
Member (Technical)

rs/md