

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 217 of 2018

IN THE MATTER OF:

Jan Aahar Pvt. Ltd.

...Appellant

Vs.

Naveen Chandok

...Respondent

Present: For Appellant: - Mr. Arbind Kumar, Advocate.

O R D E R

17.05.2018— This appeal has been preferred by the ‘Corporate Debtor’ against an order dated 22nd March, 2018, passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, whereby and whereunder the application preferred by the Respondent- ‘Operational Creditor’ under section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “I&B Code”) has been admitted, order of ‘Moratorium’ has been passed, ‘Interim Resolution Professional’ has been appointed with certain directions.

2. Though the appeal is not maintainable at the instance of the ‘Corporate Debtor’ in view of the decision of the Hon’ble Supreme Court in **“Innoventive Industries Ltd. v. ICICI Bank— 2017 SCC OnLine SC 1025”** (Paragraph No.11), but before giving an opportunity to the shareholder, we examined whether there is *prima facie* case made out or not. We have also gone into the merit of the appeal.

Contd/-.....

3. Learned counsel appearing on behalf of the Appellant submits that there is an 'existence of dispute' but such submission cannot be accepted as pursuant to demand notice under section 8(1) issued by the 'Operational Creditor', the 'Corporate Debtor' did not deny the claim by filing reply under Section 8(2). This apart, there is nothing on the record to suggest that before initiation of the 'Corporate Insolvency Resolution Process' the 'Corporate Debtor' raised any dispute with regard to supply or quality of goods.

4. The plea as taken at the time of hearing that one or other documents is forged cannot be taken into consideration as the 'Corporate Debtor' has not denied the liability pursuant to demand notice under Section 8(1) of the 'I&B Code'.

5. We find no merit in this appeal. It is accordingly dismissed. No cost.

6. The Appellant has not shown the position of the Appellant- 'Corporate Debtor' and the Respondent- 'Operational Creditor' correctly in the cause title of the paper book and in the cover page. The office is directed to make necessary correction of the same. The case should be titled as 'Jan Aahar Pvt. Ltd. V/s. Naveen Chandok'.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)