

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 742 of 2019

IN THE MATTER OF:

Rukson Packaging Pvt. Ltd.

...Appellant

Versus

Bionext Pharma Pvt. Ltd.

...Respondent

Present: For Appellant : Mr. B.S. Sharma and Ms. Pooja Giri, Advocates

O R D E R

25.07.2019 The Appellant – ‘Rukson Packaging Private Limited’ filed an application u/s 9 of the Insolvency and Bankruptcy Code, 2016 (for short, the ‘**I&B Code**’) against ‘Bionext Pharma Private Limited’, and the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai rejected the application by impugned order dated 28th May, 2019 on the ground that there is a ‘pre-existence of dispute’. The Appellant has taken the plea that there is no ‘pre-existence’ of dispute. However, from the record, we find that the Arbitration Proceedings was initiated being Petition No. 60 of 2016 much prior to the issuance of the Demand Notice u/s 8(1) of the I&B Code between the parties in which award was passed in March, 2019. Thereafter the application u/s 34 of the ‘Arbitration and Conciliation Act, 1996’ has been filed and is pending. In the aforesaid fact and in absence of any error apparent on the face of the record, we are not inclined to grant any relief.

The appeal is dismissed.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc