

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1033 of 2019

IN THE MATTER OF:

Shyson Thomas

...Appellant

Vs

Skyways Technics A/S

....Respondent

Present:

**For Appellant: Mr. Aditya Sinha and Mr. Abhinav Agrawal,
Advocates.**

For Respondent: Ms. Nandini Sharma, Advocate.

ORDER

14.10.2019: 'M/s Skyways Technics A/S, Lufthavnsvej 1B, 6400 Sonderborg, Denmark' (Operational Creditor) moved an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') for initiation of Corporate Insolvency Resolution Process against 'M/s Air Pegasus Private Limited' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench by impugned order dated 23rd August, 2019 having admitted the application, the present appeal has been preferred by the Director/ Shareholder of the Corporate Debtor.

2. Learned counsel for the Appellant submits that there is a pre-existing dispute and also relied on one email dated 11th January, 2016. However, it is accepted that the aforesaid document was not relied upon by the Appellant before the Adjudicating Authority or when received the demand notice under Section 8(1) of the I&B Code.

3. Ms. Nandini Sharma, learned counsel appearing on behalf of 'M/s Skyways Technics A/S' (Operational Creditor) submits that the aforesaid documents were never brought to the notice of the Operational Creditor or the Adjudicating Authority. On the other hand, twenty-two adjournments were taken on behalf of the Corporate Debtor to settle the matter. The Corporate Debtor having failed to settle the matter for about one year, the Adjudicating Authority, in absence of any documents related to existence of dispute, admitted the application.

4. In the circumstance, we are not inclined to interfere with the impugned order dated 23rd August, 2019. However, this order will not come in the way of the Appellant to move application under Section 12A of the I&B Code to settle the claim of the Creditors. The appeal stands disposed of with aforesaid observations. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

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

(Kanthi Narahari)
Member (Technical)

am/sk

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