

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 129 of 2019**

**IN THE MATTER OF:**

**Beacon Courier & Cargo India Pvt. Ltd. ....Appellant**

**Vs.**

**Trim India Pvt. Ltd. ....Respondent**

**Present :**

**For Appellant: Mr. Krishnendu Datta with Mr. Puneet Singh  
Bindra, Mr. Sanampreet Singh, Advocates**

**For Respondents: Mr. Ashish Aggarwal with Mr. Gurcharan Singh,  
Advocates**

**O R D E R**

**03.05.2019** - This appeal has been preferred by Beacon Courier & Cargo India Pvt. Ltd. ('Operational Creditor') against order dated 2<sup>nd</sup> January, 2019 passed by the Adjudicating Authority (National Company Law Tribunal) (*in short* 'NCLT'), New Delhi which rejected application u/s 9 of the Insolvency & Bankruptcy Code ('I&B' Code), 2016 filed by the Appellant.

Learned counsel appearing on behalf of Appellant submits that the application has been rejected on the ground of pre-existing dispute between the parties but the 'Corporate Debtor' in their suit filed, reflected a loan of 1,98,03,609.84, which suit has been filed after four months after the Demand Notice was issued u/s 8(1) of the Insolvency & Bankruptcy Code ('I&B') Code.

....contd.

Learned counsel appears on behalf of Respondent brought to our notice number of e-mails including the e-mail dated 24<sup>th</sup> July, 2017 wherein the meetings between the parties were communicated which shows that there was a dispute between the **“Beacon Courier & Cargo India Pvt. Ltd.(Operational Creditor’) and “Trim India Pvt. Ltd.”** which were to be closed within two weeks and the parties were to finally settle by settlement on 8<sup>th</sup> August, which reads as follows:-

*“Subject : Minutes of Meeting 24.07.2017*

*As per our today’s meeting below points are discussed:*

- 1) As you assured us today that all the dispute related between Beacon and Trim India will be close with 2 weeks and we will sit for final settlement on 8<sup>th</sup> of august.*
- 2) We have given all the details or data desire by your accounts team, still if you require any other information or data do let us know till tomorrow.*
- 3) After settlement of both the parties account you will release our payment on mutual understanding between us on same day.*

4) *Also please share us the details of invoices of 15-16 financial year against which you have deducted our 60 lacs as a weight difference, we want to work on your adjustment so that we can clear our books. Please acknowledge the same.”*

Learned counsel for the Appellant again referred to Suit No. 796 relied on C.S.(Comm.) No. 796 of 2018 filed by the ‘Corporate Debtor’ before the Hon’ble High Court of New Delhi wherein they suggest that they have accepted the liability of Rs. 1,98,03,609.84. Apart from the fact that the suit has been filed by Respondent, subsequently, we find that in the said suit the ‘Corporate Debtor’ has claimed that it is liable to recover a sum of Rs. 3,15,99,172.84 with penal and future interest @ 18% p.a.

The aforesaid fact shows that there is a pre-existing dispute which is also corroborated and which was filed by ‘Corporate Debtor’. In the aforesaid fact, we are not interfering in the impugned order. In the absence of any merit, the appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)

ss/gc

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