

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 957 of 2020

In the matter of:

Mahipal Trading Company
Through its Sole Proprietor Mr. Mahipal Mehta

....Appellant

Vs.

Mataji Dyeing Mills Pvt. Ltd.

....Respondent

Present:

Appellant: Mr. Naresh Kumar Sejvani, Advocate.

ORDER

(Through Virtual Mode)

05.11.2020: Application of Appellant- ‘Operational Creditor’ filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 came to be dismissed at the hands of the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Court-2, primarily on the ground that the same was not maintainable inasmuch as the same was filed not by a person but by a firm.

Learned counsel for the Appellant submits that the firm is represented by its sole proprietor. The proprietor is a “person” who filed the same. Even if the name of the firm was an unnecessary surplusage, the same could have been struck out but the proprietor being a “person” was competent to maintain the application.

While we were considering the issuance of notice, learned counsel for the Appellant brought to our notice the fact that the Respondent- ‘Corporate Debtor’ is already undergoing Corporate Insolvency Resolution Process initiated by another Operational Creditor.

Contd/-.....

In view of the same, the initiation of fresh Corporate Insolvency Resolution Process against the same Corporate Debtor, even if this appeal is allowed, would not be warranted and the Appellant- 'Operational Creditor' would be entitled only to file a claim.

We accordingly dispose of this appeal with the observations that in case the Appellant- 'Operational Creditor' has filed a claim, the same may be considered for admission by the 'Interim Resolution Professional' and if the Appellant is yet to file the same, he may file the same within time as may be prescribed under the Regulations.

Copy of this order be sent to the Adjudicating Authority for information.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

AR/g