

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

**Company Appeal (AT) (Insolvency) No. 593 of 2018**

**IN THE MATTER OF:**

**KJMC Corporate Advisors (India) Ltd.**

**...Appellant**

**Vs**

**India Steel Works Ltd.**

**....Respondent**

**Present:**

**For Appellant: Mr. Vipul Ganda and Ms. Shreya Jain, Advocates.**

**For Respondent: Mr. Rakesh Taneja, Ms. Jaikriti S. Jadeja, Ms. Anne Mathew and Mr. Saurabh Chaudhary, Advocates.**

**ORDER**

**23.04.2019:** This appeal has been preferred by the Appellant (Operational Creditor) against order dated 30<sup>th</sup> July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench whereby the application under Section 9 preferred by the Appellant has been rejected on the ground of pre-existing dispute and res-judicata.

2. Earlier on 27<sup>th</sup> September, 2018, when the matter was taken up, learned counsel for the Appellant submitted that there is no pre-existing dispute between the parties and the question of application of principle of res-judicata does not arise.

3. On notice the Respondent has appeared and referred to letter dated 14<sup>th</sup> July, 2015 (at page 435, Volume III of the appeal) wherein pursuant to letter dated 2<sup>nd</sup> July, 2015 and Provisional Debt Note dated 16<sup>th</sup> June, 2015 for

Rs.1.38,51,000/-, the Corporate Debtor intimated the Operational Creditor that there was no any understanding or mandate or any oral commitment from their end for payment of any professional fees to KJMC Corporate Advisors (India) Ltd. i.e. Appellant herein. From the said letter it is clear that there is a pre-existing dispute about the amount claimed by the Appellant.

4. Learned counsel appearing on behalf of the Appellant submits that subsequently they have admitted the dues but that cannot be a ground to entertain application under Section 9 of IBC, which can be decided by competent court in view of aforesaid letter.

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

[Justice S. J. Mukhopadhaya]  
Chairperson

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

(Kanthi Narahari)  
Member (Technical)

*am/gc*