

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1346 of 2019**

**IN THE MATTER OF:**

**EPC Contracts India Pvt. Ltd.**

**...Appellant**

**Vs**

**RegenesiS Technologies India Pvt. Ltd.**

**....Respondent**

**Present:**

**For Appellant: Yash Tandon, Advocate.**

**For Respondent:**

**ORDER**

**21.11.2019:** Having heard leaned counsel for the Appellant and case for condonation of delay being carved out, we condone delay of 8 days in preferring the appeal. I.A. No. 3839 of 2019 stands disposed of.

2. Application filed by the Appellant – ‘EPC Contracts India Pvt. Ltd.’ under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘I&B Code’) against the Corporate Debtor – ‘RegenesiS Technologies India Pvt. Ltd.’ has been rejected by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench III on the ground that there was a pre-existing dispute. For arriving at this conclusion learned Adjudicating Authority has relied upon two emails exchanged between the Operational Creditor and the Corporate Debtor prior to issuance of the demand notice.

3. This fact has not been disputed by learned counsel for the Appellant, who submits that there has been acknowledgment of debt by the Respondent subsequently.

4. It is well settled by now that Corporate Insolvency Resolution Process is not a recovery proceeding and in the event of there being a pre-existing dispute, the course open to the Operational Creditor is to approach the competent forum for recovery of the outstanding debt. Once pre-existence of dispute is there and it is brought to the notice of the Operational Creditor by the Corporate Debtor before service of demand notice in terms of Section 8(1) of the I&B Code or in reply thereof, the issue gets out of the clutches of the I&B Code.

5. There being no merit in the instant appeal, the same is dismissed.

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)

*am/gc*