

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

**Company Appeal (AT) (Insolvency) No. 1388 of 2019**

**IN THE MATTER OF:**

Ami Alloys ..... Appellant  
Vs  
Hi Tech Butterfly Valves India Pvt. Ltd. .... Respondent

**Present:**

**For Appellant:            Appeared but attendance not marked.**

**O R D E R**

**02.12.2019**            Admittedly, it is not in dispute that the Appellant-Ami Alloys ('Operational Creditor') filed a Summary Suit No. 117 of 2016 in the Court against Hi Tech Butterfly Valves India Pvt. Ltd. ('Corporate Debtor') before Civil Judge Ahmedabad. Subsequently, he issued notice under Section 8(1) and thereafter filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016. In this background, Adjudicating Authority rightly held that the application under Section 9 of the I&B Code was not maintainable, there being pre-existing dispute and a suit is pending.

Learned Counsel for the Appellant submits that the suit was filed when Insolvency and Bankruptcy Code had not come into existence. However, on such ground the application filed under Section 9 of the I&B Code cannot be entertained. We find no merit in this Appeal. The Appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)