

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 178 of 2018

IN THE MATTER OF:

M. Chakravarthi

...Appellant

Vs.

Sawhney Trading Company Private Limited & Anr.

...Respondents

Present: For Appellant: - Mr. M.A. Venkata Subramanian and Mr. K. Moorthy, Advocates.

ORDER

03.05.2018- This appeal has been preferred by the Appellant against the order dated 9th April, 2018, passed by the Adjudicating Authority (National Company Law Tribunal), Chennai Bench, whereby and whereunder the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") preferred by the Respondents- M/s. Sawhney Trading Company Private Limited for 'Corporate Insolvency Resolution Process' against M/s. K.A. Earthmovers Private Limited has been admitted, order of 'Moratorium' has been passed and 'Interim Resolution Professional' has been appointed.

2. Learned counsel appearing on behalf of the Appellant submitted that the claim related to the year 2010 and thereby it was barred by limitation, but such submission cannot be accepted in view of the decision of this Appellate Tribunal in "**M/s. Speculum Plast Pvt. Ltd.**

V/s. PTC Techno Pvt. Ltd. –Company Appeal (AT) (Insolvency) No. 47 of 2017”, wherein this Appellate Tribunal held that the ‘Limitation Act’ will not be applicable to the proceeding under ‘I&B Code’.

3. Then it is contended that the total records were not enclosed by the ‘Operational Creditor’ as is required under the law, but in absence of any specific pleading, such arguments cannot be accepted. If there was any defect in the application, it was open to the Appellant to point out the same to the Adjudicating Authority to enable the ‘Operational Creditor’ to cure the defects. However, as there is nothing on the record to suggest that the application under Section 9 of the ‘I&B Code’ preferred by the Respondent-‘Operational Creditor’ was defective, we reject the submission.

4. We find no merit in this appeal. It is accordingly dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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