

It was also submitted that the 'Corporate Debtor' through its reply, notice was also called upon the Appellant to repay a sum of Rs. 75,00,00/- towards financial assistance sought for by the Appellant and further a sum of Rs. 3 Crores towards the development carried out in the leased premises.

From the record we find that the Demand Notice u/s 8(1) of the I&B Code was issued by the Appellant subsequently on 25th October, 2018.

From the aforesaid fact it is clear that there is a 'pre-existing dispute' and the Adjudicating Authority has rightly rejected the application.

Learned counsel for the Appellant submits that the dispute raised is not based on record but such submission cannot be accepted as it is not open to the Adjudicating Authority to decide disputed facts which can be decided only by the court of competent jurisdiction. The Adjudicating Authority is only required to notice whether there is a 'pre-existence of dispute' or not and having found that there is a 'pre-existence of dispute', the Adjudicating Authority had rightly rejected the application.

As we find no merit in this appeal, it is accordingly dismissed. However, the order(s) passed by the Adjudicating Authority or this Appellate Tribunal will not come in the way of the Appellant to move before the appropriate court of law.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/gc