

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 547 of 2018

IN THE MATTER OF:

M/s. Rely Paints Pvt. Ltd.

...Appellant

Versus

M/s. BSL Scaffolding Ltd.

...Respondent

Present:

For Appellant : **Mr. Manoj Kumar Gahlaut, Mr. Tarun Aggarwal and
Mr. Bhasker, Advocates**

O R D E R

26.09.2018 The appellant filed an application under Section 9 (in Form 5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') but there being an error, the appellant asked to correct the mistake. The error having not corrected, the Adjudicating Authority (National Company Law Tribunal), Bench III, New Delhi dismissed the appeal. The application for restoration of the same having been dismissed by the impugned order dated 14th August, 2018, the present appeal has been preferred.

2. Having heard the learned counsel for the appellant, while we are not inclined to interfere with the impugned order for the present allow the appellant to file fresh application under Section 9 of the I&B Code after notice to the 'Corporate Debtor' under Section 8(1) of the I&B Code. The appellant may also take advantage of earlier notice of Section 8(1) and reply, if any, submitted by the 'Corporate Debtor' pursuant to the earlier notice. However, intimation to be given by the appellant to the 'Corporate Debtor'.

3. If, any application under Section 9 of the I&B Code is filed after giving notice to the 'Corporate Debtor' and give reference to the earlier Demand Notice issued under Section 8(1) of the I&B Code, the Adjudicating Authority will decide the same in accordance with law uninfluenced of the impugned order(s) of the rejection of the application which was not decided on merit.

The appeal stands disposed of. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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