

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No.230 of 2020

IN THE MATTER OF:

M/s Vertex Customer Management India Pvt. Ltd.Appellant

Vs.

M/s Abhibus Services (India) Pvt. Ltd.Respondent

Present :

For Appellant: Attendance not marked

O R D E R

26.02.2020 - Learned Counsel for the Appellant submits that though the order was pronounced on 05.11.2019, it was communicated to 'Operational Creditor' only on 06.01.2020. If the limitation period is counted from the date of communication of the Impugned Order, the appeal has been filed within the period of limitation. However, to be on safer side, the Appellant has filed an application for *Condonation of Delay*.

2. In the given circumstances, we allow condonation of delay if any, in preferring this Appeal. *I.A. No. 607 of 2020 is accordingly disposed of.*

....contd.

3. The application filed by the Appellant before the Adjudicating Authority u/s 9 of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) alleging default in respect of an amount of Rs. 1,83,87,559/- has been rejected by the Adjudicating Authority by virtue of Impugned Order dated 05.11.2019 on the ground that a dispute was raised by the 'Corporate Debtor' prior to issuance of Demand Notice with regard to quality of service as the 'Corporate Debtor' was not satisfied with the Customer Care Service extended to the customers of 'Corporate Debtor'.

4. Heard Learned Counsel for the Appellant. Since it is not in Controversy that the dispute with regard to quality of service was raised prior to issuance of Demand Notice, it is futile on the part of Learned Counsel for Appellant to contend that the '*Termination Notice*' was bad. This is notwithstanding the fact that no dispute has been raised as regards the '*Termination Notice*' before the Learned Adjudicating Authority.

5. After going through the record, we are satisfied that the dispute in regard to quality of service has been raised prior to issuance of Demand Notice. It is not within the *domain* of 'NCLAT' or 'NCLT' to look into the dispute in regard to termination which clearly falls outside its Province. Once, the dispute has been raised with regard to quality of service prior to issuance of Demand Notice u/s 8(1) of the 'I&B' Code, the application u/s 9 of the 'I&B' Code could not be admitted.contd.

6. We find no legal infirmity in the order passed by the Adjudicating Authority. The appeal is accordingly dismissed. However, the Appellant shall be at liberty to seek legal remedy before the proper Forum if so advised. There shall be no order as to costs.

[Justice Bansi Lal Bhat]
Member (Judicial)

[V.P. Singh]
Member (Technical)

[Alok Srivastava]
Member (Technical)

ss/nn