

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 189 of 2018

IN THE MATTER OF:

Surendra Trading Company

...Appellant

Vs.

**M/s. Juggilal Kamlat Jute Mills Company Ltd.
(now known as Geo Jute Limited) & Ors.**

...Respondents

**Present: For Appellant: - Mr. Pradeep Aggarwal and Mr. Udit Malik,
Advocates.**

**For Respondent:- Mr. Arvind Kr. Gupta and Ms. Henna
George, Advocates for R1.**

**Mr. Gaurav Kejriwal and Mr. Atanu Mukherjee, Advocates
for R2.**

**Mr. Ashok Kumar Jain, Mr. Karan Khanna and Mr. Ankit
Kohli, Advocates for R3.**

O R D E R

07.05.2018- *Prima facie* there is nothing on the record to suggest that the Appellant enclosed any evidence of debt or default in their application under Section 9 (Form-5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code"). A certificate of the year 2004 (Page 259) cannot be termed to be an evidence of default. Rest of the enclosures are the margin bills which have already been noticed by the Adjudicating Authority (National Company Law Tribunal) and come to a conclusion that the margin bills alleged by the Company cannot be treated as evidence of debt or default. Those marginal bills do not have any signature of the issuing authority of the 'Corporate Debtor'.

2. Learned counsel appearing on behalf of the 1st Respondent submits that earlier the claim of the Appellant was not accepted by this Appellate Tribunal in an appeal preferred by the 'Corporate Debtor' in Company Appeal (AT) (Insolvency) No. 09 of 2017, against which the Appellant claimed to be an 'Operational Creditor', moved before the Hon'ble Supreme Court, who allowed the Appellant to remove the defects. However, even thereafter, the Appellant could not enclose any document of debt.

3. In the present case, as we find that the outstanding due as claimed by the Appellant is prior to 2004 and in absence of evidence of debt, the application under section 9 of the 'I&B Code' was not maintainable. The Adjudicating Authority has rightly rejected the application.

4. In absence of any merit. The appeal is dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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