

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1463 of 2019

IN THE MATTER OF:

Shashank Keshav Kalkar ...Appellant

Versus

Raychem RPG Private Limited & Anr. ...Respondents

Present:

**For Appellant: Mr. Monish K. Vig,, Mr. Siddharth Acharya and
M. Ankur, Advocates.**

For Respondents:

ORDER

06.01.2020 This Appeal has been preferred by the Appellant – Shareholder and Director of Herodex Power Systems Pvt. Ltd. (‘Corporate Debtor’) against order dated 9th September, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench admitting application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for short the ‘I&B Code’) filed by Raychem RPG Private Limited (‘Operational Creditor’).

2. Learned Counsel for the Appellant submitted that there was pre-existing dispute and referred to an email dated 19th April, 2016 (page-78). However, from the said email, it is clear that there was no dispute raised with regard to the quality of the material supplied by the ‘Operational Creditor’, but it was only intimated that there was short supply of materials. Even for the materials supplied, the amount is more than Rs.10 lakhs and therefore, the application under Section 9 of the I&B code was maintainable.

3. Next, it was contended that a cheque was issued to the Respondent on 30th May, 2016 for a sum of Rs.38,49,631/-, which has not yet been encashed. However, it is accepted that the 'Corporate Debtor' asked the 'Operational Creditor' not to encash the cheque as the cheque was issued on certain condition.

4. For the reasons aforesaid, we find no case to interfere with the impugned order. The Appeal is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)