

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 974 of 2019

IN THE MATTER OF:

Suresh Kumar Aggarwal

...Appellant

Versus

**Royal Kitchen Appliances
Pvt. Ltd. & Anr.**

...Respondents

**Present: For Appellant : Mr. Rajshekhar Rao and Mr. Aditya Gupta,
Advocates
O R D E R**

20.09.2019 The Respondent – ‘M/s. Oyster Steel and Iron Private Limited’ (Operational Creditor) filed an application under Section 9 of the ‘Insolvency and Bankruptcy Code, 2016 (for short, ‘the **I&B Code**’) for initiation of ‘Corporate Insolvency Resolution Process’ against ‘M/s. Royal Kitchen Appliances Private Limited’ (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi by impugned judgment dated 19th August, 2019 having admitted the application, the present appeal has been preferred by the Director of the ‘Corporate Debtor’.

2. Learned counsel appearing on behalf of the Appellant submits that there is no ‘debt’ payable in fact and the debt has been adjusted. He relied on the reply to the notice issued by the Respondent (Operational Creditor) under Section 8(1) of the ‘I&B Code’. The said reply has been given on behalf of the ‘Corporate Debtor’ on 28th December, 2018 in terms of Section 8(2) wherein the total history of the business between the parties has been referred to. As clause 8(h) therein, it is informed that the ‘Corporate Debtor’ has good business relations with M/s. Laxmi Wire Netting and Weaving Factory and request was made on behalf of the ‘Operational Creditor’ to the above mentioned effect to

'M/s. Laxmi Wire Netting and Weaving Factory', which they accepted. Resultantly, the remaining balance amount of Rs.1,42,08,140/- for invoices raised on Royal appliances to the 'Operational Creditor' and the amount of Rs.31,30,134/- payable for invoices raised on Royal appliances to 'Duke Sponge & Iron Pvt. Ltd.' were adjusted against the amount with 'Operational Creditor' and 'Duke Sponge & Iron Pvt. Ltd.' owed to 'M/s. Laxmi Wire Netting and Weaving Factory'. It was informed that resultantly a sum of Rs.1,73,38,000/- was reduced from the outstanding of the 'Operational Creditor' and 'Duke Sponge & Iron Pvt. Ltd.' and in the account of 'M/s. Laxmi Wire Netting and Weaving Factory'. The aforesaid fact shows that the appellant replied to the Demand Notice received under Section 8(1), the 'Corporate Debtor' and merely wanted to show that it is a third party amount which has been adjusted. There is no ground to suggest that 'debt' is not payable. In the said reply, it has never been stated that there is a 'pre-existing dispute' and therefore, we find that the due amount payable is much more than Rupees One Lakh and the Adjudicating Authority has rightly admitted the application under Section 9.

In absence of any merit, the appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

/ns/sk