

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 752 of 2019

IN THE MATTER OF:

Smt. Andal Bonumalla

.....Appellant

Vs.

Tomato Trading LLP & Ors.

.....Respondents

Present :

For Appellant:

Mr. Bommineni Vivekananda, Advocate

O R D E R

25.07.2019 - Having heard learned counsel for the Appellant and being satisfied with the ground, delay of five days in filing the appeal is hereby condoned. I.A. No. 2274 of 2019 stands disposed of.

Learned counsel for the Appellant submits that Respondent - 'Tomato Trading LLP & Ors.' who claimed to be the 'Operational Creditor' does not come within the meaning of 'Operational Creditor' as defined u/s 5(20) of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) as no information were supplied or service rendered by the first Respondent. It is stated that the first Respondent advanced the amount of Rs. 31,12,160/- for purchase of sugar, thereby cannot claim to be the 'Operational Creditor' and the application filed u/s 9 of the Insolvency & Bankruptcy Code, 2016 was not maintainable.

....contd.

Let notice be issued on the Respondents by speed post. Requisite along with process fee, if not filed, be filed by 26th July, 2019. If the appellant provides the e-mail address of the respondent, let notice be also issued through e-mail.

Post the case for 'admission' (after notice) on **14th August, 2019** within five cases.

The appeal may be disposed of at the stage of admission.

In the meantime, the Interim Resolution Professional (IRP) will ensure that the company remains going concern and the manufacturing and production of the company do not suffer; payment of wages to the employees/workmen and supplied during Resolution Process shall be made on time. The Insolvency Resolution Professional will take aid of (suspended) Board of Directors, paid Directors, officers and the employees of the Corporate Debtor. The Banks having account of the corporate debtor will also cooperate with the Resolution Professional to ensure compliance of this order.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/gc