

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Ins.) No. 755 of 2018**

**IN THE MATTER OF:**

**Harish Shivdasani**

**...Appellant**

**Versus**

**Harsh Vinimay Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**           **Mr. Divyanshu Rai, Advocate**

**For Respondent:**       **Mr. Ankit Singal and Mr. Divyanshu Gupta,  
Advocates**

**O R D E R**

**09.04.2019**       The application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016' (for short, 'the I&B Code') was preferred by 'Harsh Vinimay Private Limited' (Operational Creditor) for initiation of 'corporate insolvency resolution process' (CIRP) against 'Maa Mahamaya Steels Private Limited'.

Learned counsel for the appellant submits that the appellant tried to settle the matter but the parties could not settle the matter.

From bare perusal of the order, we find the application filed by the respondent was in order. The argument made on behalf of the counsel for the appellant is that there is no document to show that there is default but that cannot be accepted and the application filed shows the record of 'debt' and

‘default’. Section 8 notice was also sent prior to the application of Section 9 and we find no infirmity in the order dated 29<sup>th</sup> October, 2018 for admitting the application.

Learned counsel appearing on behalf of the respondent submitted that the appellant has suppressed number of facts before the Arbitral Tribunal and also before the National Company Law Tribunal, Mumbai Bench. They have also suppressed all the relevant material of facts even from this Appellate Tribunal and thereby requested to impose exemplary cost on it. However, we are not inclined to go into the question as to whether a fraud is made by the appellant or not, which will be decided on the application if moved by the ‘Financial Creditor’. As we find no merit in the appeal, the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

/ns/sk/