

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

**Company Appeal (AT) (Insolvency) No. 103 of 2019**

**IN THE MATTER OF:**

**Financial Pundits LLP**

**...Appellant**

**Vs.**

**M/s. VSR Infratech Pvt. Ltd.**

**...Respondent**

**Present: For Appellant: - Mrs. Aunish Ahlavat, Ms. Ankita Ahuja  
and Ms. Palak Rohmetra, Advocates.**

**ORDER**

**01.02.2019—** The Appellant filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) for initiation of the 'Corporate Insolvency Resolution Process' against 'M/s. VSR Infratech Private Limited'; it having dismissed by the order dated 3<sup>rd</sup> December, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench-III, the Appellant has challenged the said order.

2. The Adjudicating Authority has noticed that there is a 'pre-existence of dispute' with regard to the supply. In fact, the 'Corporate Debtor' made counter claim on 11<sup>th</sup> November, 2016 for a sum of Rs. 1,46,06,800/-. The said notice was duly replied by the Appellant vide its reply dated 23<sup>rd</sup> November, 2016, denied the amount as was claimed.

Contd/-.....

3. Learned counsel appearing on behalf of the Appellant submits that those frivolous objections were raised by the Respondent. In fact, they have admitted the dues payable to the Appellant. However, such submission cannot be accepted as disputed issues cannot be decided by the Adjudicating Authority, counter claim having issued by the Respondent- 'Corporate Debtor' as back as on 11<sup>th</sup> November, 2016.

4. There being a pre-existence dispute, the application under Section 9 was not maintainable. In this circumstance, while we condone the delay in re-filing, dismiss the appeal. No cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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