

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 958 of 2020

In the matter of:

Brand Realty Services Ltd.

....Appellant

Vs.

Sir John Bakeries India Pvt. Ltd.

....Respondent

Present:

Appellant: Mr. Jayant Mehta and Mr. Pankaj Agarwal, Advocates.

Respondent: Mr. Nishant Awana, Advocate.

ORDER

(Through Virtual Mode)

05.11.2020: The issue raised in the appeal preferred by ‘Operational Creditor’ is that its application under Section 9 of the Insolvency and Bankruptcy Code, 2016 has been dismissed on the erroneous finding that the default of installment of Settlement Agreement does not fall within the ambit of ‘operational debt’. It is submitted by Mr. Jayant Mehta, Advocate representing the Appellant that the terms of Settlement Agreement dated 15th June, 2018 only provided for the manner and method of payment of the outstanding amount due to Appellant-‘Operational Creditor’ by the Respondent under the Original Agreement dated 28th November, 2014 and that it was not a separate transaction but a part of the composite transaction not altering the nature of the debt.

Issue notice upon Respondent. Notice on behalf of Respondent is waived and accepted by Mr. Nishant Awana, Advocate. No further notice need be issued to him. He may file reply-affidavit within three weeks. Rejoinder, if any, may be filed within two weeks thereof. Caveat No. 360 of 2020 is discharged.

Contd/-.....

Short written submissions not exceeding three pages may also be filed along with pleadings.

I.A. No.2603 of 2020 seeking exemption from filing certified copies of documents is disposed of with direction to the Appellant to file certified copy of the impugned order within three weeks.

I.A. No.2602 of 2020 has been filed by the Appellant seeking imposition of Moratorium and appropriate directions against Respondent. Let Respondent may file its objections thereto, if any, within three weeks.

List the appeal on 15th December, 2020.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g