

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 660 of 2018

IN THE MATTER OF:

M/s. Hemang Resources Ltd.

...Appellant

Vs.

M/s. SSP Sponge Iron Pvt. Ltd.

...Respondent

Present: For Appellant: - Ms. Purti Marhawar Gupta, Ms. Henna George and Ms. V.S. Lakshmi, Advocates.

ORDER

29.10.2018— The application preferred by the Appellant ('Operational Creditor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 having rejected by the Adjudicating Authority (National Company Law Tribunal) vide order dated 12th September, 2018 the Appellant has challenged the.

2. We have heard learned counsel for the Appellant and perused the record.

3. From the record we find that pursuant to 'High Seas Agreement' dated 29th February, 2016 and 'Purchase Orders' dated 2nd March, 2016, certain transactions were taken place. Supplies were made but the 'Corporate Debtor' complained to the 'Operational Creditor' in respect of the quality of coal supplied and ultimately addressed the e-mail dated 27th February, 2017.

4. Learned counsel appearing on behalf of the Appellant submits that objection by the e-mail relating to quality of coal was raised only after the balance confirmation was made by the 'Corporate Debtor'. However, it has not been disputed that the 'Corporate Debtor' raised objection regarding to quality of coal much prior to issuance of demand notice under Section 8(1) of the 'I&B Code'.

5. In the aforesaid circumstances, there being a pre-existence dispute, the Adjudicating Authority has rightly rejected the application. We find no merit in this appeal. It is, accordingly, dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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