

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 778 of 2019

IN THE MATTER OF:

Mr. Ritesh Khandelwal

.....Appellant

Vs.

Dimension Data India Pvt. Ltd.

.....Respondents

Present :

For Appellant:

Mr. Arun Kathpalia, Sr. Advocate with Mr. Lomesh Nidunuri, Ms. Padmaja Kaul, Ms. Vaishnavi Rao, Mr. Eklavya, Advocates

For Respondents:

Mr. D. Abhinav, Advocate

O R D E R

31.07.2019 - This appeal has been preferred by Mr. Ritesh Khandelwal, Promoters / Director of 'Nxtgen Datacenter and Cloud Technologies Pvt. Ltd.' ('Corporate Debtor') dated 24th July, 2019 passed by the Adjudicating Authority ('National Company Law Tribunal') Bengaluru Bench, admitting the application u/s 9 of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) preferred against the 'Corporate Debtor' by 'Dimension Data India Private Limited' ('Operational Creditor').

...contd.

2. It is submitted that there is a pre-existing dispute but from the record including e-mail dated 11th January, 2019, prima facie, we find that the communication therein cannot be stated to be the pre-existing dispute.

3. However, it is not our final decision and merely prima facie view expressed for the present for the following reasons.

4. Learned counsel for the Appellant submits that the Appellant intends to settle the matter with the 'Operational Creditor' - 'Dimension Data India Private Limited' and no 'Committee of Creditors' has been constituted till date.

5. Mr. Abhinav, learned counsel appears on behalf of the 1st Respondent - 'Operational Creditor'. He states that no proposal has been submitted till date.

6. In the facts and circumstances of the case, we give one opportunity to enable the parties to make amicable settlement.

7. Respondent may file reply-affidavit within two weeks. Rejoinder, if any, along with Vakalatnama of the Counsel may be filed by the Appellant within two weeks thereafter.

8. Place the case for 'orders' on **29th August, 2019.**

...contd.

9. During the pendency, till next date the IRP will not constitute the Committee of Creditors, if not yet constituted. However, he will proceed with the other procedure and will ensure that 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/sk

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