

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT)(Insolvency) No. 247 of 2018

IN THE MATTER OF:

Mr. Neeraj Gupta, Suspended Director **...Appellant**
& Shareholder of Sardhana Papers Pvt. Ltd.

Vs

M/s Raj Duplex Pvt. Ltd. & Anr. **....Respondents**

Present:

For Appellant: Mr. Nitesh Jain and Ms. Arveena Sharma,
Advocates

For Respondents: Mr. Jatin Sethi, Advocate along with Shri Amit
Kumar- authorized representative.

ORDER

31.05.2018 This appeal has been preferred by Mr. Neeraj Gupta, Director and shareholder of M/s Sardhana Papers Pvt. Ltd. ('Corporate Debtor') against the judgment dated 02.05.2018 passed by the Adjudicating Authority (National Company Law Tribunal) Allahabad in Company Petition (IB) No. 160/ALD/2017. By the impugned order the application under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') filed by Respondent -M/s Raj Duplex Pvt. Ltd ('Operational Creditor') has been admitted, order of moratorium has been passed and Resolution Professional has been appointed.

2. Learned Counsel appearing on behalf of the Appellant submits that the impugned order was passed without serving any 'Demand Notice' under Section 8(1) of 'I&B Code' and the Adjudicating Authority failed to consider the same. It is also submitted that the matter has been settled between the parties.

3. Mr. Jatin Sethi, learned Counsel on behalf Respondent 'Operational Creditor' has appeared and not disputed the fact that notice under Section 8(1) of I & B Code was not served on the 'Corporate Debtor' as it was issued on a wrong address. Learned Counsel appearing on behalf of 'Operational Creditor' submits that the matter has been settled.

4. For the reasons aforesaid, we set aside the order dated 02.05.2018 passed by the Adjudicating Authority (National Company Law Tribunal) Allahabad in Company Petition (IB) No. 160/ALD/2017.

5. In effect, order(s) passed by the Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium, freezing of account and all other order(s) passed by the Adjudicating Authority pursuant to impugned order and action, taken by the 'Interim Resolution Professional, including the advertisement, published in the newspaper calling for applications and all such orders and actions are declared illegal and are set aside. The 'Corporate Debtor' is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

6. The Adjudicating Authority will fix the fee of 'Interim Resolution Professional' and the 'Corporate Debtor' will pay the fees for the period he has functioned. Appeal is allowed. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/gc