

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 239 of 2019

IN THE MATTER OF:

Sh. Suresh Garg

...Appellant

Vs.

Avon Cottex Private Limited & Ors.

...Respondents

Present: For Appellant: - Mr. Ashish Middha, Advocate.

O R D E R

25.03.2019— This appeal has been preferred by the Director/ Shareholder of 'Anandtex International Private Limited'- ('Corporate Debtor') against the order dated 20th February, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench, Chandigarh. By the impugned order, the Adjudicating Authority admitted the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 filed by the Respondent- 'M/s. Avon Cottex Private Limited'- ('Operational Creditor').

2. From the records, it is clear that the Adjudicating Authority noticed that the amount of Rs. 27,80,211/- is pending against the 'Corporate Debtor'. The parties filed copies of the records including the ledger account of the 'Corporate Debtor' and its books of accounts (Diary No. 2031 dated 6th June, 2018). A copy of e-mail sent by the 'Corporate Debtor' on 30th January, 2018 and the account statement and

Contd/-.....

reconciliation state to the 'Corporate Debtor' was also brought to the notice of the Adjudicating Authority. Taking into consideration all the records, the application under Section 9 filed by the 'Operational Creditor' was admitted.

3. Learned counsel appearing on behalf of the Appellant submitted that the total amount of Rs. 27,80,211/- has been paid. When asked to refer any of the record including the instrument, if any, by which the amount has been paid to the 'Operational Creditor', learned counsel for the Appellant submitted that the 'Corporate Debtor' had sent a 'debit note' to the 'Operational Creditor'. However, there is nothing on the record to suggest that the 'debit note' was raised and forwarded to the 'Operational Creditor' prior to demand notice under Section 8(1) of the I&B Code'. The subsequent 'debit note' cannot be taken into consideration to decide the application under Section 9.

4. We find no ground to interfere with the impugned order dated 20th February, 2019. The appeal is dismissed. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice A.I.S. Cheema)
Member(Judicial)

Ar/g