

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 284 of 2018

IN THE MATTER OF:

Bhadreshwar Vidyut Pvt. Ltd.

...Appellant

Vs

R. L. Steels & Energy Ltd.

....Respondent

Present:

For Appellant: Mr. Prashanto Sen, Mr. Gaurav Ray, Mr. Kamal Budhiraja, Ms. Isha Bhalla and Mr. Kaustubh Singh, Advocates.

For Respondent: Mr. Pankaj Jain, Sr. Advocate with Mr. Gaurav Mittal, Mr. Rakesh Gupta, Mr. Ankit Gupta and Mr. Rahul Totala, Advocates.

ORDER

01.08.2018: This appeal has been preferred by Appellant 'Bhadreshwar Vidyut Pvt. Ltd.' (Operational Creditor formerly known as OPGS Power Gujarat Pvt. Ltd.) against the order dated 3rd April, 2018 passed by Adjudicating Authority (National Company Law Tribunal) New Delhi Bench (Court-III), whereby the application preferred by Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for short 'I&B Code') in Form 5 has been rejected on the ground of existence of dispute.

2. Learned counsel appearing on behalf of the Appellant submits that there was no dispute in existence as the claim made by the Respondent do not relate to supply of electricity. It is submitted that about Rs.6 crore was due from the Corporate Debtor towards supply of electricity made by the Operational Creditor, which is not in dispute. Respondent claimed damage with regard to some other transaction for about Rs.7 crore, which was subsequently raised to Rs.14 crore approximately, which has no relation with supply of electricity for which default was alleged. Therefore, according to learned counsel for the Appellant there was no actual dispute regarding supply of electricity and amount payable towards the same has been defaulted by the Corporate Debtor.

3. We have heard learned counsel for the Appellant and learned counsel for the Respondent (Corporate Debtor). The fact that the Appellant has claimed approximately Rs.6 crore and there is a separate claim made by the Corporate Debtor which was approximately Rs.7 crore towards damages which was subsequently raised to approximately Rs.14 crore, in such situation, question arises as to whether the Respondent is liable to pay any amount to the Appellant or if both demands are accepted then the Operational Creditor is required to pay certain amount to the Corporate Debtor?

4. In such case there being a dispute about the debt, the question of default does not arise. For the reason aforesaid, we are not inclined to interfere with the impugned order. The appeal is dismissed with aforesaid observation. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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