

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 97 of 2018

IN THE MATTER OF:

Mahendra Trading Company & Ors.

...Appellants

Vs

**Hindustan Controls and Equipment
Pvt. Ltd.**

....Respondent

Present:

**For Appellants: Mr. Rudreshwar Singh, Mr. Anil Agarwalla,
Mrs. Neha Sharma and Mr. Aditya Garodia,
Advocates.**

**For Respondent: Mr. Abhijeet Sinha, Ms. Anusuya Sudha Sinha,
Mr. Saikat Sarkar, Mr. Aditya Sukhla and Ms.
Amrita Sharma, Advocates.**

ORDER

05.07.2019: The questions arise for consideration in this appeal are:-

- (i) Whether the Appellants can claim to be 'Operational Creditor' of Respondent (Corporate Debtor) or pursuant to the agreement, they can be termed to be partners of Joint Venture?;
- (ii) If the first question is answered in affirmative that the Appellants are 'Operational Creditor', the question will be – Whether there is debt and default committed by the Respondent?; and
- (iii) If both of the above questions are answered in affirmative, the question will arise whether 'notice for arbitration' is a pre-existing dispute?

Heard Mr. Rudreshwar Singh, learned counsel for the Appellant. Hearing concluded. Heard Mr. Abhijeet Sinha, learned counsel for the Respondent. Hearing concluded. **Judgment Reserved.**

Parties are allowed to file fresh written submissions taking into consideration the aforesaid questions, not more than three pages, by 9th July, 2019.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc