

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 108 of 2019**

**IN THE MATTER OF:**

M/s. Global Infonet Distribution Pvt. Ltd. .... Appellant

Vs

M/s. Ikyam Solutions Pvt. Ltd. .... Respondent

**Present:**

**For Appellant:            Appeared but attendance not marked.**

**For Respondent:        Mr. Rajeev Sharma and Mr. Kunal Sharma,  
Advocates for Respondent.**

**ORDER**

**09.05.2019**        The Appellant M/s. Global Infonet Distribution Private Limited issued Demand Notice under Section 8(1) of the Insolvency & Bankruptcy Code, 2016 (I&B Code) alleging default of Rs.10,01,117/- and also claimed interest @ 24% per annum. The Respondent M/s. Ikyam Solutions Pvt. Ltd. (Corporate Debtor) replied opposing the claim by reply dated 19<sup>th</sup> May, 2018. The Adjudicating Authority (National Company Law Tribunal), Bengaluru Bench without notice to the Corporate Debtor, based on the reply under Section 8(2) dated 19<sup>th</sup> May, 2018 given by the 'Corporate Debtor', which was enclosed by the Appellant, dismissed the application by impugned order dated 17<sup>th</sup> December, 2018 on the ground that no amount is payable.

2.        Learned Counsel appearing on behalf of the Appellant submitted that there is no pre-existing dispute and the reply under Section 8(2) dated 19<sup>th</sup> May, 2018 cannot be treated to be a pre-existing dispute, or can be taken into consideration to hold that the total amount has been paid.

3. The Respondent has appeared and filed reply affidavit. However, we find that there is nothing on the record to suggest that there is pre-existing dispute.

4. Learned Counsel for the Appellant rightly submitted that the reply to the Demand Notice dated under Section 8(1) cannot be termed to be an existence of dispute merely on the basis of statements made therein and in the absence of any other evidence, it cannot be held that the amount has been paid. The Adjudicating Authority has failed to consider the same.

5. We have no other option, but to set-aside the impugned order dated 17<sup>th</sup> December, 2018. The impugned order is set-aside. The case is remitted back to the Adjudicating Authority (National Company Law Tribunal) Bengaluru Bench, which will give notice to the parties and after hearing, decide the matter on merit. The Appeal is accordingly disposed of.

6. In the meantime, it will be open to the parties to settle the matter.

[Justice S. J. Mukhopadhaya]  
Chairperson

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

[Kanthi Narahari]  
Member (Technical)