<u>**IN THE MATTER OF:**</u>

Roma Infrastructures India Pvt. Ltd.   **....Appellant**

Vs.

A.S. Iron & Steel (I) Pvt. Ltd.   **....Respondent**

Present:
For Appellant: **Mr. Gautam Bajaj and Mr. Rohan Chawla, Advocates**
For Respondent: Mr. Alok Dhir, Ms. Varsha Banerjee and Ms. Juhi Bhambhani, Advocates for CD.

O R D E R

22.04.2019:   The Appellant filed an application under Section 9 of I&B Code against M/s A.S. Iron & Steel (I) Pvt. Ltd. which has been rejected by impugned order dated 23.01.2019.

2.   Learned counsel for the Appellant submits that the Appellant paid the amount of Rs. 74,32,326/- for supply of goods by the Corporate Debtor. The goods having not been supplied the present application under Section 9 was filed. According to him, there is no pre-existing dispute.

3.   Learned counsel appearing on behalf of the Respondent (Corporate Debtor) submitted that the goods were supplied as far back as in 2014, therefore, the claim is barred by limitation. However, we are not concerned with the aforesaid question as to whether the goods were supplied or not.

4.   Admittedly, Appellant – Roma Infrastructures India Pvt. Ltd. has not supplied the goods nor provided any services to Respondent- A.S. Iron & Steel (I) Pvt. Ltd. It advanced payment of Rs. 74,32,326/- to Respondent for supply of goods. In view of the aforesaid fact, the payment cannot be treated to be an 'Operational Debt' and the application under Section 9 filed by the Appellant was not maintainable. Accordingly, no relief can be granted.

5.   However, the order passed by this Appellate Tribunal or Adjudicating Authority will not come in the way of Appellant to moved before the court of Competent Jurisdiction for appropriate relief. The appeal is dismissed with aforesaid observations. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

sa/gc

Company Appeal (AT) (Ins) No. 223 of 2019