

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 24 of 2020

IN THE MATTER OF:

M/s. Premraj Packagings

...Appellant

Vs.

M/s. Unnao Distilleries & Breweries

...Respondent

**Present: For Appellant: - Mr. Abhishek Anand, Mr. Tushar Tyagi
and Mr. Viren Sharma, Advocates.**

O R D E R

10.01.2020— The Appellant preferred an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) against ‘M/s. Unnao Distilleries & Breweries Ltd.’- (‘Corporate Debtor’) which was rejected by the Adjudicating Authority (National Company Law Tribunal), Allahabad Bench, by impugned order dated 4th October, 2019 on the ground that notice under Section 8(1) was not served on the ‘Corporate Debtor’.

2. Learned counsel appearing on behalf of the Appellant referred to an e-mail (at page 27) dated 5th February, 2019 to suggest that the attachment therein was the Demand Notice in Form-3.

3. However, we are not inclined to accept such e-mail in view of the fact that India Post reported “insufficient address”. In the circumstances, while we are not inclined to interfere with the impugned order dated 4th October, 2019, allow the Appellant to serve fresh Demand Notice under

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Section 8(1) of the 'I&B Code' on the 'Corporate Debtor' and after service, if the matter is not settled within 10 days, may file fresh application under Section 9 enclosing therewith the service report.

4. In such case, the Adjudicating Authority will consider the application under Section 9 uninfluenced by the impugned order dated 4th October, 2019 and will count the period of limitation taking into consideration the date of e-mail i.e. 5th February, 2019.

The appeal stands disposed of with aforesaid observations. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g