

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

**Company Appeal (AT) (Insolvency) No. 420 of 2018**

**IN THE MATTER OF:**

**Cytech Coatings Pvt. Ltd.**

**...Appellant**

**Versus**

**G.R. Polyfilms Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**           **Mr. Abhigya, Advocate**

**For Respondent:**       **Mr. Sandeep Bajaj and Ms. Aakanksha Nehra,**  
**Advocates**

**ORDER**

**20.08.2018**       The appellant (Operational Creditor) filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 which has been rejected by the impugned order dated 15<sup>th</sup> June, 2018.

Learned counsel appearing on behalf of the appellant submits that there was no pre-existence of dispute and whatever dispute was there has been settled.

Learned counsel appearing on behalf of the respondent referred to the *e-mails* to suggest that there is an existence of dispute which was the reason for rejecting the application.

From the record, we find that the Demand Notice under Section 8(1) of the I&B Code was issued by the appellant on 24<sup>th</sup> November, 2017, but much prior to the same by email dated 1<sup>st</sup> July, 2016, the 'Operational Creditor' admitted the fact that it was charging the excess rates. By e-mail dated 20<sup>th</sup> August,

2016 the 'Corporate Debtor' intimated that full stock was of sub-standard quality. Another e-mail dated 17<sup>th</sup> December, 2016 issued by the 'Corporate Debtor' shows that the 'Corporate Debtor' has expressed its inability to pay in view of sub-standard goods. In view of the aforesaid admitted position, we hold that the Adjudicating Authority has rightly held that the application under Section 9 was not maintainable on account of pre-existence of dispute.

In absence of any merit the appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

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