

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) Nos. 62 & 98 of 2020

IN THE MATTER OF:

M/s. SE Forge Ltd. ...Appellant

Vs.

M/s. Welmech Engineering Company Pvt. Ltd. ...Respondent

Present: For Appellant: - Mr. Abhijeet Sinha, Mr. Mahesh Agarwal, Mr. Divyang Chaniramani and Mr. Rajeev Kumar, Advocates.

For Respondent:- None.

O R D E R

22.01.2020— Learned counsel for the Appellant submits that the Respondent- 'M/s. Welmech Engineering Company Private Limited'- ('Operational Creditor') before admitting application under Section 9 of the Insolvency and Bankruptcy, 2016 ("I&B Code" for short) cannot request the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Ahmedabad to direct the 'Corporate Debtor' to produce records to make out a case in favour of the 'Operational Creditor'.

2. The 'Operational Creditor' has filed application under Section 9 in Form-5 and the Adjudicating Authority was required to go through the records of application under Section 9 in Form-5 including the enclosures annexed thereto to decide the debt and default. The Appellant- 'Corporate Debtor' can only point out that there is pre-existing dispute or that no debt is payable in eye of law or in fact or that there is no default or application under Section 9 is barred by limitation.

Contd/-.....

Let notice be issued on Respondent by speed post. Requisite along with process fee, if not filed, be filed by 23rd January, 2020. If the Appellant provides the e-mail address of Respondent, let notice be also issued through e-mail.

Place the case 'for admission' on 13th February, 2020 within five cases.

In the meantime, the impugned orders dated 17th and 18th December, 2019 directing the 'Corporate Debtor' to produce certain documents shall remain stayed. However, it will be open to the Adjudicating Authority to go through the records of Form-5 and the reply, if any, filed by the 'Corporate Debtor' and on hearing may pass appropriate order in accordance with law, even during the pendency of the appeal.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

(Justice Anant Bijay Singh)
Member(Judicial)

Ar/RR