

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 759 of 2019

IN THE MATTER OF:

Vivek Pasricha and Anr. Appellants

Vs

Amit Sachdeva and Anr. Respondents

Present:

**For Appellants: Mr. Ruchin Middha and Iggu Chittiappa,
Advocates.**

For Respondents: Mr. Shalok Chandra, Advocate

ORDER

26.07.2019 Learned Counsel for the Appellant submits that the Respondent issued Demand Notice under Section 8(1) of the Insolvency and Bankruptcy Code, 2016 (I&B Code) on 26th July, 2018. Prior to the same, he resigned on 7th March, 2018, as recorded in the Minutes of the Meeting of the Board of Directors (Page 51). It is stated that prior to that there was a discussion about revision of pay with respect to which email was issued on 25th February, 2018 (Page 48). After resignation, the Respondent-‘Operational Creditor’ filed application under Section 241 and 242 of the Companies Act, 2013, wherein he raised claim about the salary. The case was heard by the National Company Law Tribunal, New Delhi and order has been reserved on 14th May, 2018.

Let notice be issued to the Respondents.

Mr. Shalok Chandra, learned Counsel appears on behalf of Respondent Mr. Amit Sachdeva submits that earlier in the Company Petition the National Company Law Tribunal, New Delhi passed interim order on 22nd March, 2018. Learned Counsel for the Appellant submits that the aforesaid matter shows that there is a pre-existing dispute.

Counsel for the Appellant will serve a copy of the paper-book on Advocate Mr. Shalok Chandra in the course of day. Mr. Chandra, is allowed time to file reply affidavit along with Vakalatnama within two weeks'. Rejoinder, if any, be filed within a week thereof.

As 1st Respondent has already appeared through Mr. Shalok Chandra, no further notice need to be issued to him.

Let notice be issued to 2nd Respondent by speed post. Requisites along with process fee be filed by 29th July, 2019. If the Appellant provide email address of the Respondent, let notice be issued through email. Dasti service is permitted.

Post the case 'for orders' on **26th August, 2019**. The Appeal may be disposed of on the next date.

Until further orders, the 'Interim Resolution Professional' will ensure that the Company remains a going concern. The 'Interim Resolution Professional' will take assistance of the (suspended) Board, paid Directors and the employees. The person who is authorised to sign the bank cheques may issue cheques only after authorization of the Interim Resolution Professional. The bank accounts of the Corporate Debtor be allowed to be operated for day-to-day functioning of the Company such as for payment of current bills of the suppliers, salaries and wages of the paid Director, the employees'/workmen electricity bills etc.

Pendency of the case will not come in the way of parties to settle the matter.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[KanthiNarahari]
Member (Technical)

Ash/GC