

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1332 of 2019

IN THE MATTER OF:

K. G. Rajasekaran

...Appellant

Vs

Alectrona Energy Pvt. Ltd.

....Respondent

Present:

For Appellant: Ms. Promila, Advocate.

For Respondent:

ORDER

20.11.2019: The Appellant - 'K. G. Rajasekaran', employee of 'M/s Alectrona Energy Pvt. Ltd.' filed application under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') for initiation of Corporate Insolvency Resolution Process against its Employer - 'M/s Alectrona Energy Pvt. Ltd.' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal), Division Bench Chennai by impugned order dated 29th July, 2019 rejected the application.

2. Learned counsel for the Appellant submits that the application under Section 9 was rejected in limine. However, we find that the impugned order was passed after hearing learned counsel for the parties. It appears that the Operational Creditor's claim - a sum of Rs.31,66,807/- is payable but no record produced about existence of debt or default. In reply to Section 8(1) Notice issued on 6th March, 2018, the Corporate Debtor by its reply dated 16th March, 2018 pointed out number of days Appellant remained absent and denials to other claims which was against variable pay, leave travel allowance, etc. which are not the salary.

3. Having heard learned counsel for the Appellant we find that there is no specific document relating to debt brought on record and Appellant has not disclosed anywhere as to how much he is entitled to claim arrears for the years 2016, 2017, 2018 and 2019 and about leave encashment, variable pay, leave travel allowance and other reimbursements. We hold that the Adjudicating Authority rightly rejected the application under 9 being incomplete. However, we make it clear that the impugned order dated 29th July, 2019 passed by the Adjudicating Authority (NCLT), Division Bench, Chennai or this Appellate Tribunal will not come in the way of the Appellant to mover before appropriate forum for appropriate relief, if the claim is not barred by limitation. The appeal is dismissed with aforesaid observation.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

[Justice Venugopal M.]
Member (Judicial)

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