

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

**Company Appeal (AT) (Insolvency) Nos. 1262 of 2019**

**IN THE MATTER OF:**

Deepak Gupta ..... Appellant

Vs

Ved Contracts Pvt. Ltd. & Ors. .... Respondent

**Present:**

**For Appellant:            Mr. Sandeep Bhurasia and Mr. Allam,  
Advocates.**

**O R D E R**

**19.11.2019**            Having heard learned counsel for the appellant and being satisfied with the grounds, the delay of five days in preferring the appeal is condoned. Interlocutory Application No.3652 of 2019 stands disposed of.

2.    M/s. Ved Contracts Pvt. Ltd. ('Operational Creditor') filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**I&B Code**') for initiation of 'Corporate Insolvency Resolution Process' against M/s RG Infra Build Pvt. Ltd. ('Corporate Debtor'). The Adjudicating Authority (National Company Law Tribunal), New Delhi Bench by impugned order dated 25<sup>th</sup> September, 2019 admitted the application.

3.    Learned Counsel for the Appellant submits that in the accounts of three consecutive years, it is shown that the amount is payable to the 'Corporate Debtor' and there are claims and counter claims, which has not been adjudicated by the Adjudicating Authority. However, such ground cannot be accepted as the disputed question relating to claims and counter claims cannot be determined by Adjudicating Authority in an application under Section 9 of the I&B Code. In view of the judgment of the Hon'ble

Supreme Court in **“Innoventive Industries Ltd. Vs. ICICI Bank and Anr. – (2018) 1 SCC 407”**, even if amount is disputed or payable and is found to be more than Rs.1,00,000/-, the application under Section 9 is to be admitted. In the present case, there is no pre-existing dispute pending before the parties. Therefore, the Appellant cannot take any advantage relating to disputed bills, the question of joint inspection of contract etc. does not arise. In absence of any merit, the Appeal is dismissed.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

[Justice Venugopal M.]  
Member (Judicial)