

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 1114 of 2019

IN THE MATTER OF:

Avalon Sports and Media

...Appellant

Versus

Intex Technologies India Ltd.

...Respondent

Present:

For Appellant :

**Mr. Abhisek Rai, Mr. Kunal Kohli and Mr. Vasudev
Vishwkarma, Advocates**

O R D E R

23.10.2019 The Appellant filed an application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') for initiation of 'Corporate Insolvency Resolution Process' against 'Intex Technologies India Ltd.' (Corporate Debtor). The Adjudicating Authority (National Company Law Tribunal, Bench – VI, New Delhi by an Impugned order dated 1st September, 2019 having rejected the Application, present Appeal has been preferred. The record shows that the Appellant issued Demand Notice under Section 8(1) of the 'I&B Code'. The 'Corporate Debtor' replied on 25th January, 2019 pointing out that there is 'pre-existence of dispute' of the alleged claim and demanded payment of Rs.47,68,500/- for the loss of Interest due to delay in payments by 'Oxygen' along with commission already paid to the Appellant.

The Adjudicating Authority noticed that the *e-mails* were exchanged between the parties on 13th February, 2018, 9th October, 2018 and 27th November, 2018. In the *e-mail* dated 3rd December, 2018 the 'Corporate Debtor' disputed the claim on the ground that the payment of the commission is with

the 'terms & conditions' of the Agreement reached between the Appellant and the 'Corporate Debtor' and the refund sought of the amount has already been paid.

Learned counsel for the Appellant submits that there is 'Breach of Agreement'. He further submits that the frivolous disputes were raised and if there is any 'Breach of Agreement' which was raised between the 'Corporate Debtor' and the third party and not with the Appellant, those are the 'Issues' which cannot be decided by an Adjudicating Authority in a petition under Section 9 of the 'I&B Code'.

For the said reason, if documents have been placed showing that there is a 'pre-existence of dispute' with regard to the alleged claim, the Adjudicating Authority without going into the merit of the case, had rightly rejected the application under Section 9 on the ground that there is 'pre-existence of dispute'.

We find no merit in this Appeal and the same is accordingly dismissed. No costs.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Venugopal M.]
Member (Judicial)

[Justice Jarat Kumar Jain]
Member (Judicial)

/ns/sk