

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 404 of 2018

IN THE MATTER OF:

Indiana Gratings Pvt. Ltd.

...Appellant

Versus

**Conceptual Equipments &
Services Pvt. Ltd.**

...Respondent

Present:

For Appellant : Mr. Amar Dave and Ms. Aastha Mehta, Advocates

ORDER

27.07.2018 From the record we find that there was pre-existing dispute prior to issuance of Demand Notice under Section 8(1) of the Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') issued by the 'Operational Creditor'. The Adjudicating Authority by impugned order dated 18th May, 2018 has taken note of the same while referring to the dispute relating to change of make of the manufacturer as well of steel, is pending since 2nd June, 2015. The dispute relating to weight difference and invoices, is pending since 4th May, 2015.

Learned counsel appearing on behalf of the appellant referred to letter issued by the 'Corporate Debtor' dated 19th November, 2015 to submit that the 'Corporate Debtor' has accepted the claim but in the said letter the 'Corporate Debtor' has made it clear that false invoices have been raised and false facts has been recorded in the ledger account of the 'Financial Creditor', with a bad intention to snatch away more amount illegally. In the said letter, it is also informed that Rs.30,60,000 has already been paid by the 'Corporate Debtor' which has not been taken into account.

Taking into consideration the fact that the 'Corporate Debtor' has raised the dispute much prior to issuance of notice under Section 8(1) of the I&B Code, we agree with the Adjudicating Authority that there is an 'existence of dispute', and therefore application under Section 9 was not maintainable.

The appeal is accordingly dismissed. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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