

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 265 of 2017

IN THE MATTER OF :

Prem Sarup Narula **...Appellant**

Versus

ByCell Telecommunications India Pvt. Ltd. **...Respondent**

Present: For Appellant: Mr. Praveen Agarwal, Advocate.

ORDER

13.11.2017 – This appeal has been preferred by the Appellant-‘Operational Creditor’ against the order dated 28th September, 2017 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, New Delhi, whereby and whereunder the application preferred by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as ‘I&B Code’) has been dismissed on the ground of ‘existence of dispute’.

On hearing learned counsel for the Appellant and perusal of the record, we find that the Appellant initially issued a legal notice on 24th May, 2016 for winding up of the Company under Section 433(e) of the Companies Act, 1956, a Company Petition No. 790 of 2016 was filed before the Hon’ble High Court of Delhi. In the said case, in reply to the demand notice dated 31st July, 2017, the Respondent-‘Corporate Debtor’ disputed the claim on the ground that a sum of USD 33,000/-

has already been paid to the Appellant as full and final settlement of the dues to the Appellant.

In view of the aforesaid position that there is 'existence of dispute', we are not going to determine whether any further amount is payable or not, which issue can be decided by any court of competent jurisdiction, but not for triggering 'Corporate Insolvency Resolution Process' against the 'Corporate Debtor'.

We find no merit in this appeal. It is accordingly, dismissed. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Balvinder Singh)
Member(Technical)

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