

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 409 of 2018

IN THE MATTER OF:

Spectrum Voyages Pvt. Ltd.

...Appellant

Vs

Fortis Healthcare Ltd.

....Respondent

Present:

**For Appellant: Ms. Priyanka Kakkar and Mr. Yasir Khan,
Advocates.**

**For Respondent: Mr. Ayush Sharma and Mr. Shivya Pachpury,
Advocates.**

ORDER

04.10.2018: This appeal has been preferred by the Appellant – Operational Creditor against order dated 15th May, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi, which reads as follows:-

“ORDER

The territorial jurisdiction over this matter is with the NCLT-Adjudicating Authority Chandigarh. Let this petition be filed before the jurisdictional Bench.

With the aforesaid observations, the petitioner is relegated to the remedy available. The petition stands disposed of with liberty to file before jurisdictional bench, i.e. NCLT-Adjudicating Authority Chandigarh.”

2. Learned counsel appearing on behalf of the Appellant submits that in terms of Sub-section (1) of Section 60 the Adjudicating Authority, where the office of the Corporate Person located, has the statutory jurisdiction. The Appellant being located at Delhi, National Company Law Tribunal, New Delhi which is the Adjudicating Authority for the purpose of I&B Code has jurisdiction

to entertain the application. Though such submission appears to be attractive, yet cannot be accepted in view of the specific provisions of the law, which are as follows:

- (i) Sub-section (1) of Section 5 defines Adjudicating Authority for the purpose of Part II i.e. National Company Law Tribunal constituted under section 408 of the Companies Act, 2013.
- (ii) Sub-section (1) of Section 60 of I&B Code also deliberates with Adjudicating Authority for Corporate Persons which is as follows:

“60. Adjudicating Authority for corporate persons. – (1) The Adjudicating Authority, in relation to insolvency and resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.”

3. From the aforesaid provision it is clear that the Adjudicating Authority in relation to ‘insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof’ shall be the National Company Law Tribunal having territorial jurisdiction that means that it will be the Corporate Debtor against whom the resolution process or liquidation is initiated, the National Company Law Tribunal has the jurisdiction, Adjudicating Authority having jurisdiction to entertain such application. It is not in dispute that with regard to Corporate Debtor whose registered office is situated in Haryana, the National Company Law Tribunal Chandigarh has been made the

Adjudicating Authority. In the present case, the Corporate Debtor/ Corporate Person's registered office is situated in Gurgaon, Haryana, therefore, the Hon'ble President, NCLT for New Delhi Bench (Adjudicating Authority) rightly observed that petition at New Delhi is not maintainable.

4. We find no merit in this appeal. It is accordingly dismissed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/gc