

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 251 of 2018

IN THE MATTER OF:

M/s. Khanna Lubricants **...Appellant**

Vs.

M/s. Gulf Petronergy Pvt. Ltd. & Anr. **...Respondents**

Present: For Appellant: - Mr. Sumesh Dhawan, Ms. Ankita Bajpai, Advocates.

Mr. Dhruv Khanna and Mr. Akash Saini, Advocates.

For Respondents: -Ms. Charu Sangwan, Advocate.

O R D E R

15.04.2019— The Appellant- ‘Operational Creditor’ filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) for initiation of ‘Corporate Insolvency Resolution Process’ against ‘M/s. Gulf Petronergy Pvt. Ltd.’- (‘Corporate Debtor’) which having been dismissed by the impugned order dated 17th April, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Bench-III, New Delhi, the present appeal has been preferred.

2. Learned counsel for the Appellant submits that one ‘M/s. Petrolube India Ltd.’- (‘Corporate Debtor’) assigned debt to one ‘M/s. Gulf Petronergy Pvt. Ltd.’. However, such submission cannot be accepted.

Contd/-.....

3. A creditor is entitled to assign its debt to another person but a debtor cannot assign a debt payable by it to a third party in absence of any provision to assign debt of a debtor. This apart, as we find that there is pre-existence of dispute due to which the application under Section 9 is not maintainable, we are not inclined to interfere with the impugned order dated 17th April, 2018. The appeal is dismissed. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Ar/g