NATIONAL COMPANY LAW APPELLATE TRIBUNAL NEW DELHI

Company Appeal (AT)(Insolvency) No. 151 of 2017

IN THE MATTER OF:

M/s Aggcon International Equipments Pvt. Ltd. .. Appellant

Versus

Isolux Corsan India Engineering and Construction Pvt. Ltd.

. Respondent

Present:

For Appellant: Shri Saurabh Seth and Ms. Sumeera Seth,

Advocates.

For Respondent: Shri Vineet Tayal, Advocate

ORDER

22.11.2017 The Appellant – 'Operation Creditor' has filed an application under Section 9 of the Insolvency & Bankruptcy Code 2016 (hereinafter referred to as 'I&B Code') for initiation of Corporate Insolvency Resolution Process against Respondent- M/s Isolux Corsan India Engineering and Construction Pvt. Ltd. The Adjudicating Authority (National Company Law Tribunal) Chandigarh Bench, Chandigarh by impugned order dated 21st July, 2017 in CP(IB) No. 33/Chd/Hry/2017 noticed that the actual claim of the Appellant is against one 'Isolux Corsan India- C&C "JV" and not against the Respondent which is joint venture firm and the firm not being a party in the application under Section 9 of 'I&B Code', the application was dismissed.

2. That on 9th November, 2017 when the matter was taken up, the

following submission was recorded: -

"Learned Counsel for the Appellant who also accepts that "Isolux

Corsand India-C&C 'JV', District Kaimur, Bhar is not a company

incorporated under the Companies Act, 1956 or 2013."

3. Having heard the learned Counsel for the parties and in view of the fact

that the agreement between the Appellant was not with the Respondent-

'Isolux Corsan India Engineering Construction Pvt. Ltd.' but with a joint

venture firm namely 'Isolux Corsan India- C&C "JV", we hold that the

application under Section 9 of the I&B Code against the Respondent- 'Isolux

Corsan India Engineering Construction Pvt. Ltd.' is not maintainable.

4. For the reasons stated above, no interference is called for in the

impugned order. In absence of any merit the appeal, is dismissed. No cost.

[Justice S.J. Mukhopadhaya] Chairperson

[Justice Bansi Lal Bhat] Member (Judicial)

/akc/