

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal(AT)(Insolvency) 445 of 2018

IN THE MATTER OF:

Pax Technologies Pvt. Ltd.

...Appellant

Vs

CardPe Services Pvt. Ltd.

....Respondent

Present:

**For Appellant: Mr. Anurag Sharma and Mr. Gunjan Mittal
Advocates.**

**For Respondent: Mr. Samudra Sarangi, Mr. Shahab Ahmad and Ms.
Anjana Ahluwalia, Advocates**

ORDER

05.09.2018 This appeal has been preferred by Pax Technologies Pvt. Ltd (“Operational Creditor”) against the order dated 31.05.2018 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench in CP(IB) 461(ND)/2018 whereby and whereunder the application under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter ‘I&B Code’) preferred by the Appellant has been rejected on the ground of existence of dispute.

Learned Counsel appearing on behalf of the Appellant submits that the objection raised by the ‘Corporate Debtor’ is with regard to certificate of Bureau of Indian Standards. Later they have also indicated that the documents relating to custom, excise and tax clearance are not disputed.

It was further submitted that there is no real dispute in existence. The documents Respondent relied upon were of earlier period. The machines alleged to be of very poor quality were supplied two years back, which are different for

the machines supplied later on for which Demand Notices were issued subsequently and were subject matter of appeal under Section 9 of I&B Code.

Learned Counsel appearing on behalf of the Respondent referred to e-mail to suggest that there is an existence of dispute.

One of the e-mail dated 12th September, 2017 written by one Lata Priyadarshini suggests that the quality of D 200 devices were very poor and therefore all the clients were returning the hardware. It was informed by the suppliers of machines, who originally supplied to Appellant that as and when they will receive back the devices, they would send the same to the manufacturer. The other e-mail of 11th November, 2017 mailed by Mr. Sumeet Mehta, on behalf of the 'Corporate Debtor' in which he has raised concern with regard to standard of hardware D 200. By e-mail dated 7th November, 2017, the Appellant also informed the Corporate Debtor's that concern has been raised by parties about quality of product.

Learned Counsel appearing on behalf of the Appellant submits that those relates to other material supplied by Chinese manufacturer whereas the claim relates to the device manufactured by Appellant i.e. D 200 devices which were supplied to the 'Corporate Debtor'.

Having heard learned Counsel for the parties, as we find that general intimation has been given to the manufacturer that Chinese manufactured D-200 devices are of poor quality. The Appellant admitted that it supplied of D 200 devices to the 'Corporate Debtor' and the 'Corporate Debtor' in its turn raised

the question of quality of the devices. In view of prima facie evidence we hold that there is an existence of dispute and therefore no interference is called for.

The appeal is dismissed. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/Sk