

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 314 of 2017

IN THE MATTER OF:

Shaw Traders

...Appellant

Vs

Balaji Paper & Newsprint Pvt. Ltd.

....Respondent

Present:

For Appellant: Mr. Shiv Shankar Banerjee, Advocate.

For Respondent: Mr. Syed Ehtesham Huda, Mr. Mangaljit Mukherjee and Mr. Abhishek Ray, Advocates.

O R D E R

04.04.2018: The question whether demand notice under section 8(1) of I&B Code can be given by an advocate stands decided by Hon'ble Supreme Court in '*Macquarie Bank Limited*' Vs '*Shilpi Cable Technologies Ltd.*' in *Civil Appeals No. 15135, 15481 and 15447 of 2017 on 15th December, 2017*, wherein the Hon'ble Supreme Court has held that an advocate can also give notice under Section 8(1). The impugned decision of the Adjudicating Authority to that extent in respect of issuance of notice by an advocate thereby seems to be incorrect.

Learned counsel for the Appellant referred to Part-V of the Form-5 where reference of invoices have been enclosed. It is submitted that those invoices are of the subsequent period and therefore the evidence of so called dispute brought on record i.e. a letter dated 15th April, 2013 (Page 558) cannot be accepted.

Prima facie from the record we find that the invoices issued and enclosed by the Appellant are of the subsequent period i.e. after 15th April, 2013. There

is nothing on record to suggest any existence of dispute in regard to the invoices enclosed.

Learned counsel for the Respondent is allowed time to address the Appellate Tribunal on the aforesaid issue based on records including the reply, if any, filed.

Post the case 'for admission' on **2nd May, 2018**. The appeal may be disposed of at the stage of admission.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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