

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 139 of 2018**

**IN THE MATTER OF:**

**Mr. Vishal Vijay Kalantri**

**...Appellant**

**Vs.**

**DBM Geotechnics & Constructions  
Private Limited & Anr.**

**...Respondents**

**Present: For Appellant: - Mr. Amit Singh Chadha, Senior Advocate with Mr. Anil Kaushik, Mr. Vishnu Sharma, Mr. Abhishek Mishra and Ms. Srishti Govil, Advocates.**

**For Respondents:- Dr. U.K Chaudhary, Senior Advocate with Ms. Vanita Bhargava, Mr. Aseem Chaturvedi, Wamika Trehan, Mr. Zacarias Joseph, Advocates.**

**O R D E R**

**18.04.2018-** Apart from other questions, the question arises for consideration in this appeal is whether application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") can be entertained while petition under section 11(6) of the Arbitration Act, 1996 is pending before the Hon'ble High Court. In other words, whether an application under Section 11(6) of the Arbitration Act, 1996 amounts to pendency of an arbitral proceeding. If it does not amount to pendency of an arbitral proceeding, in such case, can it be treated to be existence of a dispute for refusing an application under Section 9 of the 'I&B Code'.

Contd/-.....

Issue notice. Mr. Aseem Chaturvedi, Advocate accepts notice on behalf of 1<sup>st</sup> Respondent. No further notice need be issued to him.

Let notice be issued on 2<sup>nd</sup> Respondent represented by Interim Resolution Professional by speed post. Requisites along with process fee, if not filed, be filed by 19<sup>th</sup> April, 2018. If the Appellant provides the e-mail address of the 2<sup>nd</sup> Respondent, let notice be also issued through e-mail. Dasti service is permitted.

Post the matter on 3<sup>rd</sup> May, 2018.

In the meantime, the Interim Resolution Professional(s) will ensure that the company remains on-going and if so necessary may take assistance of the (suspended) Board of Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorization of the Resolution Professional. The bank account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen, electricity bills etc.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

Ar/uk