

NATIONAL COMPANY LAW APPELLATE
TRIBUNAL,
NEW DELHI

Company Appeal (AT) (Ins) No. 33 of 2017

IN THE MATTER OF:

M/s. Meyer Apparel Limited & Anr. Appellant

Vs

M/s. Surbhi Body Products Pvt. Ltd. Respondent

**Along with Company Appeal (AT) (Ins) No. 34 of
2017**

M/s. Meyer Apparel Limited & Anr. Appellant

Vs

**M/s. Godolo & Godolo Exports Pvt. Ltd.
Respondent**

Present:

**For Appellant: Mr Alok Dhir, Ms Varsha
Banerjee and Mr Milan Singh Negi,
Advocates**

ORDER

24.04.2017 - Ld. Counsel for the Appellant submits that an affidavit to the effect that no notice was given by corporate debtor relating to dispute on unpaid operational debt as stipulated under clause (b) of sub-section (3) of Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as Code, 2016) has not been filed. However, he accepts that a notice was given by the corporate debtor to which the operational creditors replied and disputed the claim. In these circumstances, we are

of the *prima facie* view, subject to hearing the parties, that where reply to the notice has been submitted by the corporate debtor, question of filing an affidavit to the effect that "there was no notice given by the corporate debtor relating to a dispute of unpaid operational debt" does not arise.

It is also contended that the 'operational creditor' has not enclosed a copy of the certificate from the financial institution managing accounts of the 'operational creditor' confirming that there is no payment of an unpaid operational debtor by the corporate debtor as stipulated under clause (c) of sub-Section (3) of Section 9 of the Code, 2016. Thus the application was incomplete.

Let notice be issued on Respondents by Speed Post. Requisites and process fee, if not filed, be filed by tomorrow. If the Appellant provides e-mail address of the Respondents by tomorrow, notices may also be sent through e-mail. It will be open to the Appellant-Petitioner to make *da.sti* service and file receipt. Post the matter on 4th May, 2017.

In the meantime if Interim Resolution Professional is appointed or any other order is passed by the National Company Law Tribunal, Chandigarh, it shall be subject to the decision of this Appeal.

Sd! -
(Justice S.J. Mukhopadhaya)
Chairperson

Sd!-
(Mr. Balvinder Singh)
Member (Technical)