

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
NEW DELHI

Company Appeal (AT) (Ins) No. 35 of 2017

IN THE MATTER OF:

M/s. Della Constructions Pvt Ltd. Appellant

Vs

M/s. Rei Agro Ltd. & Anr. Respondents

Present:

For Appellant: - Mr T.S Joseph, Advocate

ORDER

24.04.2017 - According to the Appellant, it served legal notice dated 6th September, 2014 on M/s. Rei Agro Limited and which being replied on 27th September 2014, the Appellant filed a suit on 30th June 2015 for recovery of debt. The Appellant has enclosed relevant documents in support of such statement.

Further it is submitted that in view of third party operational creditor's application under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as Code, 2016) and its admission by impugned order dated 27th February 2017, the Appellant's suit now stands stayed. The resultant effect is that the Appellant may be adversely affected in recovering the amount.

As per the provision of law, though there is a prescription of moratorium under Section 14 of Code, 2016 we find that the Interim Resolution Professional is required to issue public notice of corporate insolvency resolution process under Section 15 of the Code, 2016. All the creditors entitled under the law can raise their claim in this case. It is not clear whether the

Appellant come within the definition of 'operational creditor' or secured creditor or unsecured creditor, as defined within the meaning of Section 3 (1) of the Code, 2016.

To hear on the issue, let notices be issued on Respondents by speed post. Requisites along with process fee be filed by tomorrow. If the petitioner provides e-mail address of the Respondents by tomorrow, let notice be also sent through e-mail.

Pendency of the appeal will not come in the way of Appellant to raise its claim before the Interim Resolution Professional, if permissible under the Code, 2016.

Post the matter on 9th May, 2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

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