

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insol.) Nos. 124 and 125 of 2017

IN THE MATTER OF:

Ganesh Sponge Pvt. Ltd.

...Appellant

Vs.

**Aryan Mining & Trading Corporation
Pvt. Ltd.**

...Respondent

**Present: For Appellants: - Sh. Amarendra Saran, Senior Advocate
with Mr. Dhananjaya Mishra, Mr. R.M.Patnaik, Mr. Arnav
Dash and Mr. Avnish K. Sharma, Advocates.**

For Respondent: - Mr. Putoban Sarkar, Advocate.

ORDER

04.08.2017- In these appeals, as two separate orders dated 19th July 2017 and 3rd August 2017 passed by Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata are under challenge, it is stated that two separate fees have been provided. Office is directed to provide two separate appeal numbers in these common appeals.

Learned Counsel for the appellant submits that the application preferred by Respondent- 'Operational Creditor' was defective and was fit to be rejected. Learned Senior Counsel submits that notice under Section 8 notice was issued not by the 'Operational Creditor' but by its lawyer which is not permissible as held by this Appellate Tribunal in "Macquarie Bank Limited Vs. Uttam Galva Metallics Limited" and "Uttam

Galva Steels Limited Vs. DF Deutsche Forfait AG & Anr". He further submits that there is a dispute in existence since prior to so-called notice issued under Section 8.

It is also stated that they have settled the matter with the respondent and a joint application for withdrawal has also been filed before Learned Adjudicating Authority.

Mr. Putoban Sarkar, Learned Counsel for the respondent accepts notice. No notice be issued. A week's time is allowed to respondent to file reply affidavit. Appellant may file reply within three days thereof.

Post the matter on 23rd August, 2017.

Until further order, the impugned order(s) dated 19th July 2017 and 3rd August 2017 shall remain stayed.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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