

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 118 of 2017

IN THE MATTER OF

United Motors Heavy Equipment Pvt. Ltd. ... Appellant

Vs.

Sundaram Industries Pvt. Ltd. ... Respondent

Present: For Appellant:- Mr Vijayan and Mr Sujit Keshri,
Advocates.

For Respondent:- Mr R. Venkatavaradan, Mr.
Anirudh Wadhwa and Mr. Chandramouli P,
Advocates.

ORDER

25.08.2017 — This Appellate Tribunal by order dated 31st July 2017 noticed submission made on behalf of the Appellant that dispute was filed after Section 8 notice. Ld. Counsel for the Respondents, faced with the situation submitted that prior to that, a notice under Section 433(e) of the Companies Act, 1956 was issued on 17th November 2016 which the Respondent disputed vide reply dated 5th December 2016, However, such submission cannot be accepted in view of the fact that the Central Government *vide* notification dated 7th December 2016 framed rules pursuant to which it was not possible for the Appellant to prefer any application under Section 433 (e) before the High Court, except to prefer an application under Section 9 of the Insolvency & Bankruptcy Code, 2016.

Ld. Counsel for the Respondent contended that a serious dispute was raised by rejecting the Tyre supplied by Appellant as it was as per specification. Reliance has been placed on e-mail dated 26th October 2011. Ld. Counsel also submits that thereafter the matter was sorted out and Respondents started paying instalments and no further dispute was raised. In the circumstances we allow the Respondents whereby an affidavit giving reference to dispute, if any, raised after 2013 i.e., till the last date the payment was made, be filed within a week after serving copy of the affidavit to Appellant.

Post the matter on 19th September 2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

RC