

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 31 of 2018

IN THE MATTER OF:

Ramco Systems Ltd.

...Appellant

Vs.

Spicejet Ltd.

...Respondent

Present: For Appellant: - Mr. Neeraj Malhotra, Senior Advocate with Mr. Raj Dev Singh, Mr. Arijeet Banerjee and Mr. Ritesh Advocate.

For Respondent:- Shri Virendra Ganda, Senior Advocate with Mr. Abhishek Sharma and Ms. Ashly Cherian, Advocates.

ORDER

27.02.2018- Learned counsel for the Appellant submits that the Adjudicating Authority (National Company Law Tribunal) has rejected the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") on three grounds namely:

- i. Notice under sub-section (1) of Section 8 of the 'I&B Code' is not supported by proper authorisation;
- ii. Form 5 submitted was not supported by proper authorisation; and
- iii. There is an 'existence of dispute'.

It is further submitted that the sub-section (1) of Section 8 of the 'I&B Code' and Form 5 both were signed by the General Manager (Legal)

Contd/-.....

of the 'Operational Creditor'. According to him, it is not mandatory to enclose any authority letter. He placed reliance on the decision of the Hon'ble Supreme Court in **'Macquarie Bank Limited Vs. Shilpi Cable Technologies Ltd.— Civil Appeal No.15135 of 2017'** to suggest that Hon'ble Supreme Court has not held that the Form 3 notice was mandatorily to be signed by the authorised person. It is submitted that the ratio laid down by the Hon'ble Supreme Court with regard to the authorisation should also be applied for similar terms as mentioned in Form 5 that means authorisation letter is not mandatory.

Learned counsel for the Appellant placed reliance on documents to suggest that there is debt which the Respondent defaulted to pay and there is no existence of dispute.

Post the matter for admission for further hearing on 13th March, 2018 at 2.00 p.m.

The appeal may be disposed of on the next date.

In the meantime, it will be open to the parties to file short written submissions referring to the relevant pages not more than three pages.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/gc