

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insol.) 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 Tejaswani BR, Advocate

ORDER

31.07.2017- Ld. Counsel for the appellant submits that suit was filed subsequent to the notice under section 8 of the Insolvency and Bankruptcy Code, 2016. According to the appellant, Section 8 notice was issued on 31st January, 2017, that is much prior to the filing of the suit. To be on the safer side of the limitation, the appellant filed suit on 9th February 2017, therefore, it cannot be stated that a dispute was 'in existence' as on 31st January, 2017, when notice under section 8 was issued. Ld. Adjudicating Authority has failed to appreciate the same and rejected the application under section 9 of the Insolvency and Bankruptcy Code, 2016 on the ground that a suit is pending.

2. Let notice be issued on respondents by speed post. Requisites along with process fee, if not filed, be filed by tomorrow. If the appellant provides e-mail address of the respondent, let notice also be issued through e-mail.

Post the matter on 25th August, 2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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