

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 366 of 2018

IN THE MATTER OF:

Equipment Conductors & Cables Ltd.

...Appellant

Versus

**Transmission Corporation of
Andhra Pradesh Ltd.**

...Respondent

Present:

For Appellant : Though present, attendance not marked

ORDER

13.07.2018 Learned counsel for the appellant submits that the Arbitral Tribunal rejected the claim against which the appellant moved application under Section 34 of the Arbitration and Conciliation Act (for short, ‘the Arbitration Act’) which was partly awarded and decreed in favour of the appellant. The application for review under Section 37 of the Arbitration Act preferred by the ‘Corporate Debtor’ was also rejected. Therefore, initially the appellant filed an application for execution of the award and after coming into the force of the Insolvency and Bankruptcy Code, the appellant filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the ‘I&B Code’) which has been rejected on the ground that an execution petition is pending, and therefore there is an ‘existence of dispute’. It is submitted that as the award attained its finality it is always open to the ‘Operational Creditor’ to file application for initiation of ‘corporate insolvency

resolution process' under Section 9 of the I&B Code instead of pursuing the execution case.

Let notice be issued on the respondent both in the matter of condonation of delay and the appeal by Speed Post. Requisite alongwith process fee, if not filed, be filed by 16th July, 2018. If the appellant provides *e-mail* address of the respondent, let notice be also issued through *e-mail*.

Post the case for 'admission' on 8th August, 2018.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk/