

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 392 of 2018

IN THE MATTER OF:

Sumit Gupta

...Appellant

Vs

Rishabh Texco Pvt. Ltd.

....Respondent

Present:

**For Appellants: Mr. Swarnendu Chatterjee, Mr. Srishti Thukral,
Ms. Debalina Banerjee and Mr. Rakesh Wadhwa,
Advocates.**

For Respondent:

O R D E R

24.07.2018: According to the Appellant, the Corporate Debtor – ‘M/s Shivalik Cotsyn Private Limited’ was to pay only a sum of Rs.40 Lakhs in favour of ‘M/s Rishabh Texco Pvt. Ltd.’ (Operational Creditor). The rest of the amount payable by the Corporate Debtor was payable to another ‘Operational Creditor’ namely ‘M/s Bhavesh Texo Fab Pvt. Ltd.’. The agreement dated 21st February, 2017 is a tripartite agreement between ‘M/s Shivalik Cotsyn Private Limited’, ‘M/s Rishabh Texco Pvt. Ltd.’ (Operational Creditor herein) and ‘M/s Bhavesh Texo Fab Pvt. Ltd.’. As per the said agreement, the amount of Rs.40 Lakh which was to be paid by the Corporate Debtor in favour of ‘M/s Rishabh Texco Pvt. Ltd.’ (Operational Creditor) was set off on transfer of a piece of land, which has been noticed by the Adjudicating Authority. Therefore, according to the Appellant there was no debt payable to ‘M/s Rishabh Texco Pvt. Ltd.’ and therefore the question of default does not arise.

Let notice be issued on Respondent by Speed Post. Requisites alongwith process fee, if not filed, be filed by 26.07.2018. If the appellant provides email address of the Respondent, notice may also be issued through email.

Post the case 'for admission' on **20th August, 2018.**

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

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