

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 321 of 2017**

**IN THE MATTER OF:**

**J. P. Engineers Pvt. Ltd.**

**...Appellant**

**Vs**

**Murti Udyog Ltd.**

**....Respondent**

**Present:**

**For Appellant: Mr. Sharad Tyagi, Advocate.**

**For Respondent: Mr. Ajay Kohli, Advocate.**

**O R D E R**

**23.03.2018:** Prima facie from the record we find that the notice under Section 8(1) of I&B Code was issued on 13<sup>th</sup> June, 2017. The application under Section 9 (Form 5) was filed on 13<sup>th</sup> September, 2017. A suit was filed by the Corporate Debtor on 12<sup>th</sup> December, 2017. In spite of repeated query, the learned counsel for the Corporate Debtor could not lay hand on any document to suggest that prior to 13<sup>th</sup> June, 2017 (day on which demand notice was issued) the Corporate Debtor has raised any dispute with the Appellant. The copy of FIR (page 341 A) cannot be taken into consideration as evidence of dispute, as it relates to criminal offence and not regarding dispute of claim. Closure Report also cannot be treated to be evidence of dispute. The Adjudicating Authority cannot go beyond the record i.e. Form 5 and the enclosures attached thereto and like the Tribunal cannot give any finding regarding any other document or any separate claim, etc. like books of account or Annual Return. An application for initiation of Corporate Insolvency Resolution Process cannot be dealt with like petition under Company Law.

With aforesaid observation, we adjourn the case to give an opportunity to the Respondent to bring on record any evidence to show that they disputed the

claim by writing letter or e-mail or in their any other document indicating the Appellant with regard to supply of goods by the Appellant. Pendency of this appeal will not come in way of the parties to settle the dispute.

Post the matter 'for orders' on **19<sup>th</sup> April, 2018**.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

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