

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 275 of 2018

IN THE MATTER OF:

Manju Anand Choudhari

...Appellant

Vs.

Percula Shipping & Trading INC & Anr.

...Respondents

Present: For Appellant: - Mr. Arun Kathpalia, Senior Advocate, Mr. Ritin Rai, Ms. Amrita Sarkar, Mr. Abhas and Mr. Samaksh Goyal, Advocates.

For Respondents: - Mr. Yatub Nath Bahrgav, Advocate

ORDER

31.05.2018- Learned Senior Counsel for the Appellant submits that there is an 'existence of dispute' as arbitration proceeding is pending between the parties; no demand notice under section 8(1) of the Insolvency and Bankruptcy Code, 2016 was served on the 'Corporate Debtor' and the Adjudicating Authority (National Company Law Tribunal) without notice to the 'Corporate Debtor' admitted the application under Section 9 of the 'I&B Code' preferred by the Respondents- 'Operational Creditors'.

Issue notice. Mr. Yatub Nath Bahrgav, Advocate accepts notice on behalf of 1st Respondent. He is allowed 10 days' time to file reply affidavit along with vakalatnama. Rejoinder, if any, may be filed by the Appellant within a week thereof.

Contd/-.....

Post the matter on 6th July, 2018.

The appeal may be disposed of at the stage of admission.

During pendency of the appeal, the 'Resolution Professional' will ensure that the company remains on-going and if so necessary may take assistance of the (suspended) Board of Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorization of the 'Resolution Professional'. The bank account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen, water and electricity bills etc.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g