

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 278 of 2017

IN THE MATTER OF :

M/s. Bhushan Power & Steel Ltd.

... Appellant

Versus

Deepak Fasteners Ltd.

... Respondent

Present:

**For Appellant: - Shri Arvind Kumar Gupta and Ms. Heena
George, Advocates**

ORDER

27.11.2017 — Learned counsel for the appellant submits that Section 11 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I & B Code') will not be attracted even to a 'Corporate Debtor' undergoing Corporate Insolvency Resolution Process, for initiating proceedings under Section 9 against another 'Corporate Debtor'. According to the learned counsel for the appellant the bar of Section 11 is not applicable on the appellant. It is further submitted that the dispute between the parties as was existing prior to the year 2013 stood resolved on 1st September, 2015. Thereafter, the respondent – 'Corporate Debtor' having agreed to pay the agreed amount and having subsequently failed to pay the amount, the appellant can request to initiate the proceedings under Section 9 and in such case any dispute as was existing prior to 1st September, 2015 cannot be taken into consideration to reject the application.

Let notice be issued on Respondent by speed post. Requisite along with process fee, if not filed, be filed by 28th November, 2017. If the Appellant provides the e-mail address of Respondent, let notice be also issued through e-mail.

Post the matter on 14th December, 2017.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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