

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

**Company Appeal (AT) (Insolvency) No. 225 of 2017**

**IN THE MATTER OF:**

**PEC Ltd.**

**...Appellant**

**Vs.**

**M/s. Sree Ramakrishna Alloys Ltd.**

**...Respondent**

**Present: For Appellant: - Mr. Sanjeev Narula and Mr. Kaanan Gupta,  
Advocates.**

**ORDER**

**18.10.2017-** The Appellant, a Government of India Undertaking, claimed to be 'Financial Creditor' filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") for initiation of 'Corporate Insolvency Resolution Process' against the Respondent- 'Corporate Debtor'. However, the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, while admitting the case, treated the appellant as an 'Operational Creditor', and the application under Section 9 of the 'I&B Code'.

2. Learned counsel for the appellant submits that the appellant is not aggrieved by the order of admission, but the Adjudicating Authority without going through the provisions of law and the nature of the case treated the application under Section 9 of the 'I&B Code'. For example, the appellant had not issued any demand notice under sub-section (1) of Section 8 of the 'I&B Code' and not submitted record in terms of sub-

section (3) of Section 9 of the 'I&B Code'. Form 1 was filled up and all documents in terms of Section 7 of the 'I&B Code' were enclosed. It is submitted that if its character as 'Financial Creditor' is changed as 'Operational Creditor', then the appellant cannot be take part in meeting of the creditors, as only the 'Financial Creditor' can be a member.

3. Let notice be issued on Respondents by speed-post. Requisites along with process fee, if not filed, be filed by 23<sup>rd</sup> October, 2017. If the appellant provides e-mail address of the respondents, let notice also be issued through e-mail.

4. Post the matter on 9<sup>th</sup> November, 2017. It will be open to the appellant to ask for appropriate interim relief at the stage of preparation of list of 'Financial Creditor' for holding meeting under the provisions of the 'I&B Code'.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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