

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

**Company Appeal (AT) (Insolvency) No. 168 of 2017**

**IN THE MATTER OF :**

**Balaji Enterprise**

**... Appellant**

**Versus**

**Gammon India Limited**

**... Respondent**

**Present: For Appellant : Shri Sanjay Kumar Ruia with Shri Haresh  
Purushottamdas Shah, Professional  
Representatives**

**For Respondent: Ms. Awantika Manohar, Shri E. Siddharth  
Rao and Shri Prashant Kumar, Advocates**

**O R D E R**

**11.09.2017** From the record, it appears that the certified true copy of the impugned order dated 19<sup>th</sup> July, 2017, free of cost, was issued on the appellant on 18<sup>th</sup> August, 2017 in terms of National Company Law Appellate Tribunal Rules, 2016 and the appeal has been filed on 6<sup>th</sup> September, 2017. Taking into consideration the aforesaid facts, we are of the view that there is no delay in preferring the appeal . Accordingly, I.A. No. 563 of 2017 stands disposed of.

The question arises for consideration in the present appeal is whether in the facts and circumstances of the case and in view of the letter dated 5<sup>th</sup> January, 2017 written by the appellant and reply dated 7<sup>th</sup> February, 2017 given by the respondent, it can be treated to be

commencement of the arbitral proceedings under Section 21 of the Arbitration and Conciliation Act, 1996 for coming within the meaning of 'dispute' in terms of Section 5(6) of the Insolvency and Bankruptcy Code, 2016.

Let notice be issued to the respondent. Ms. Awantika Manohar, Advocate appeared and accepts notice on behalf of the respondent. No notice need be issued on them.

The respondent is allowed two weeks' time to file reply. Rejoinder, if any, be filed within a week thereof.

Post the matter on 11<sup>th</sup> October, 2017.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice A.I.S. Cheema)  
Member (Judicial)

(Balvinder Singh)  
Member(Technical)