

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 798 of 2019

IN THE MATTER OF:

Pleasant Valley Development Pvt. Ltd.

...Appellant

Versus

M/s. Wall Street Lounge Bar Pvt. Ltd.

...Respondent

Present:

For Appellant : Mr. Abhishek Vikram, Advocate

**For Respondent : Mr. Nikhil Jain, Mr. Mandeep Kalra, Mr. Nitesh
Srivastva, Mr. Nishant Shankar, Ms. Isha Khurana
and Mr. Sandeep Mishra, Advocates**

O R D E R

06 .08.2019 Having heard Mr. Abhishek Vikram, learned counsel appearing on behalf of the Appellant and Mr. Nikhil Jain, learned counsel appearing on behalf of the Respondent and being satisfied with the grounds, the delay of 10 days' time in preferring the appeal is hereby condoned. I.A. No. 2421 of 2019 stands disposed of.

The Appellant filed an application under Section 9 of the 'Insolvency and Bankruptcy Code, 2016 (for short, 'the I&B Code') against 'M/s. Wall Street Lounge Bar Private Limited', the Adjudicating Authority by impugned order dated 14th June, 2019 rejected the application on the ground of 'pre-existence of dispute'.

Learned counsel appearing on behalf of the Respondent brought to our notice that the reply as was submitted on behalf of 'M/s. Wall Street Lounge Bar Private Limited' (Corporate Debtor) on 28th August, 2017, wherein the counsel on behalf of the 'Corporate Debtor' raised the dispute about the amount payable to the Appellant against the rent claimed by the Appellant.

It was also submitted that the 'Corporate Debtor' through its reply, notice was also called upon the Appellant to repay a sum of Rs. 75,00,00/- towards financial assistance sought for by the Appellant and further a sum of Rs. 3 Crores towards the development carried out in the leased premises.

From the record we find that the Demand Notice u/s 8(1) of the I&B Code was issued by the Appellant subsequently on 25th October, 2018.

From the aforesaid fact it is clear that there is a 'pre-existence of dispute' and the Adjudicating Authority has rightly rejected the application.

Learned counsel for the Appellant submits that the dispute raised is not based on record but such submission cannot be accepted as it is not open to the Adjudicating Authority to decide disputed facts which can be decided only by the court of competent jurisdiction. The Adjudicating Authority is only required to notice whether there is a 'pre-existence of dispute' or not and having found that there is a 'pre-existence of dispute', the Adjudicating Authority had rightly rejected the application.

As we find no merit in this appeal, it is accordingly dismissed. However, the order(s) passed by the Adjudicating Authority or this Appellate Tribunal will not come in the way of the Appellant to move before the appropriate court of law.

[Justice S.J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)