

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins) No. 1378 of 2022**

In the matter of:

Verender Singh

....Appellant

Vs.

DVS Infrastructure Pvt. Ltd. & Anr.

...Respondents

For Appellant: Mr. Piyush Singh, Mr. Akshay Srivastava, Ms. Priyal Sakawagi, Advocates.

For Respondents: Mr. Gaurav Bahl, Advocate for R2.

ORDER

21.11.2022: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 07.09.2022 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench, Court-III by which order the Adjudicating Authority has admitted Section 9 Application filed by the Operational Creditor, the Respondent herein. The Respondent has supplied goods to the Corporate Debtor from May, 2017 to January, 2018. Multiple invoices were issued by the Operational Creditor from May, 2017 to January, 2018. In the invoices which were issued by the Operational Creditor the GST number which was mentioned was 06AACCD4867B1ZW. In the invoices, the aforesaid GST Number was mentioned. In 7th July, 2018, the e-mail was sent by the Corporate Debtor to the Operational Creditor that his GST Number is 06AACCD4867B3ZU and earlier GST Number is not correct. The Operational Creditor claims to have approached the GST Authority and uploaded the correct GST Number. Two Demand Notices were issued by the Operational Creditor on 20.03.2019 and

again on 23.05.2019 under Section 8 and thereafter Application was filed under Section 9 of the IBC claiming the unpaid dues. The Adjudicating Authority by the impugned order has admitted Section 9 Application.

3. Learned Counsel for the Appellant challenging the order submits that the Adjudicating Authority committed error in admitting Application since there was mistake regarding the GST Number reflected in the invoices. He submits that although both the GST Numbers were registered in the name of the Corporate Debtor but both were not used by the Corporate Debtor. He submits that due to the above reasons, he could not take tax input credit, hence, demand was invalid and Application ought not to have admitted.

4. Learned Counsel for the Respondent submits that at the time when invoices were issued, GST Number which was reflected in the invoice was registered with the Corporate Debtor and at the time when invoices were sent and immediately thereafter the Corporate Debtor never informed that he is using another GST Number. He submits that when Corporate Debtor came to know he got the amendment in the GST Portal, he has filed the document before the NCLT along with the additional affidavit.

5. There is no dispute between the parties regarding the supply of the goods, invoices and quality of the goods. Counsel for the Appellant fairly submits that he has never raised dispute regarding supply of goods and quality. He submits that due to wrong mention of GST Number in the invoices, the demand was not valid.

6. We have considered the submissions of the Learned Counsel for the parties and perused the record.

7. GST Number which was reflected in the invoices which were issued from May, 2017 to January, 2018 was the GST Number which was registered of the Corporate Debtor and the Corporate Debtor got it surrendered on 28.07.2018 only. Hence, the submission cannot be accepted that demand was invalid. The GST Number which was registered by the Appellant, the Corporate Debtor was also found reflected in the Application, hence, demand cannot be said to be invalid. The fact that the Corporate Debtor was claiming GST input credit from another GST Number cannot be a ground to say that Operational Creditor fails to prove his debt and default.

8. We, thus, are satisfied that the demand cannot be said to be illegal and the Adjudicating Authority did not commit any error in admitting Section 9 Application. There is no merit in the Appeal. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

**[Barun Mitra]
Member (Technical)**

Anjali/nn