

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

**Company Appeal (AT) (Insolvency) No. 307 of 2023**

**IN THE MATTER OF:**

**Vaibhav Aggarwal**

**...Appellant**

**Versus**

**Sunil Sachdeva & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Virag Gupta, Saumya Srivastava, Alok Kumar  
Pandey, Advocates

**For Respondent:** Rajesh Ranjan, Archit Chauhan, Advocates for R-1  
Markandeeep Kr. Singh, Advocate for IRP

**ORDER**

**16.03.2023:** This Appeal has been filed against the Order dated 14.02.2023 by which Section 9 Application of I&B Code, 2016 filed by the Operational Creditor has been admitted. The Operational Creditor has filed Section 9 Application claiming an amount of Rs. 63,59,500/- with interest of Rs. 13,59,192/-.

2. Learned Counsel for the Appellant submits that there was pre-existing dispute between the parties hence the application ought not to have been admitted.

3. Learned Counsel for the Respondent submits that there was no pre-existing dispute till the Section 8 notice was issued and petition was filed.

4. Learned Counsel for the Appellant submits that without prejudice to rights and contentions of the parties, he is ready to deposit the entire amount in the Court. Let the Appellant deposit Rs. 77,18,692/- through the Demand Draft in the name of 'Pay and Accounts Officer', Ministry of Corporate Affairs, within two weeks from today.

5. Learned Counsel for the Respondent No. 1 accepts notice. Learned Counsel for IRP is present and submits that Committee of Creditors has already been constituted and report has been filed. Be that as it may, we direct that no further steps shall be taken in pursuance of the Impugned Order dated 14.02.2023 in the 'Corporate Insolvency Resolution Process'.

6. In the Affidavit filed by the Appellant it has been stated that appellant is not in possession of the property we record the said submission. Learned Counsel for the Appellant submits that since they are not in possession, the Respondent can enter into possession.

7. In view of the statement made by Learned Counsel for the Appellant and facts stated in petition, it would be open for the Respondent to take possession. This will be without any prejudice to rights and contentions of either of the parties.

8. List this Appeal on **06<sup>th</sup> April, 2023**. Reply be filed within two weeks.  
Rejoinder may be filed before the date fixed.

**[Justice Ashok Bhushan]**  
**Chairperson**

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

Basant/nn