

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

Company Appeal (AT) (Insolvency) No. 1632 of 2024

In the matter of:

Kunal Structure (India) Pvt. Ltd.

....Appellant

Vs.

M/s. M.K. Aircon Systems Pvt. Ltd.

...Respondent

For Appellant

Present but not marked appearance.

For Respondent

**Mr. Aditya Gauri, Mr. Amar Vivek, Ms. Dammini
Svestha, Mr. Anant Jain, Advocates**

ORDER

(Hybrid Mode)

06.09.2024: Heard Counsel for the Appellant.

2. This Appeal has been filed against the order dated 12.07.2024 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi, Principal Bench by which order transfer application filed by the Appellant to transfer since CP (IB) No. 121 of 2022 filed under Section 9 from Court-1 to Court-2 of NCLT Ahmedabad has been rejected. The Principal Bench while rejecting the transfer application has made following observations in paragraphs 2 and 3, which reads as follows:-

“2. Present transfer application is filed seeking transfer of C.P. (I.B.) No.- 121/2022 filed under Section 9 petition pending before Court-1, NCLT, Ahmedabad. Apparently, each case has a separate and individual cause of action as against the common Corporate Debtor. If any matter is admitted, the rest will have to follow.

3. *In any event, there is not much difficulty for the parties because it is before the same Bench of Ahmedabad wherein two cases are before Court-II and one case is before Court-I. If any one of the case is decided earlier, other case will be resolved as per law thereafter.”*

3. Counsel for the Appellant submits that the Corporate Debtor has common defense in the applications and there is multiplicity of proceeding unless the application under Section 9 has not transferred. It is submitted that in the High Court also, Civil Application is pending with regard to an arbitration award and the sufficient amount is to be recovered from arbitration award.

4. We have considered the submissions of the Appellant and perused the record.

5. The Principal Bench, as noted above, has observed that each case has a separate and individual cause of action as against the common Corporate Debtor. If any matter is admitted, the rest will have to follow. When the applications are filed by different Operational Creditors and one Financial Creditor, we see no error in the order of the Adjudicating Authority rejecting application for transfer of CP (IB) No. 121 of 2022.

6. As far as submission that there is a common defense, it is always open for the Appellant to press this submission before the Adjudicating Authority when the application comes for consideration on merits. We do not find any

error in the order of the Principal Bench. We make it clear that we have not expressed any opinion on the merits of any of the application.

7. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

Anjali/nn