

In the National Company Law Tribunal, Jaipur

IB No. 520(ND)/2018

TA No. 02/2018

UNDER SECTION 9 OF IBC, 2016

In the matter of:

M/s Electronica Sales Pvt. Ltd. Applicant/Petitioners

VS.

Autopal IndustriesRespondent

Order delivered on 14.09.2018

Coram: Shri R. Varadharajan, Member (Judicial)

For Petitioner (s) : Harshal Tholia, Adv.

For Respondent(s) : Naresh Kumar Sejvani, Adv.

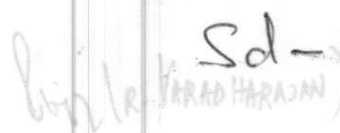
ORDER

Learned counsel for the parties are present. Despite the opportunities granted to the Corporate Debtor, reply is not coming forth and no settlement has been reported. However, learned counsel for the Corporate Debtor takes a plea that the petition is not maintainable on the preliminary ground that even before the expiry of 10 days, petition seems to have been preferred before this Tribunal and in this connection points out to certain list of dates, namely;

Notice issued on 16.04.2018 by the petitioner to the Corporate Debtor; dispatched on 18.04.2018; demand notice delivered on 24.04.2018 and that the date of expiry of the 10th day on 05.05.2018 prior to which, the Corporate Debtor was required to respond to by way of notice of dispute as provided under the



provisions of Section 8 of IBC, 2016. It is contended by learned counsel for the Corporate Debtor that the expiry of 10 days as stated above is on 05.05.2018 and that the affidavit as required under Section 9(3)(b) of IBC, 2016 has been drafted, prepared and signed on 04.05.2018, which clearly points out that 10 days period has not expired at the time of preparation of the affidavit. However, from the endorsement made in the application by the registry of this Tribunal shows that the petition has been filed only on 07.05.2018, after the expiry of 10 days period and after having awaited for the response from the Corporate Debtor either by way of issue notice of dispute or by repayment of claim amount in full by the Corporate Debtor. Since ^{at} the time of filing both the actions in alternative has not ^{been} complied by the Corporate Debtor. ^{there is no} He did not file any ^{considered} merit in the contention of the Corporate Debtor and this Tribunal is of the ^{construed} view that the Corporate Debtor adopting ^{delaying tactics} not to file the reply, nor to repay the money, ^{despite} since sufficient opportunities already been granted to the Corporate Debtor to file reply, which is not coming forth from the Corporate Debtor, ^{and hence constrained} we are ^{construe} to close the right to file reply, in relation to the Corporate Debtor. Post the matter for enquiry on 26.10.2018.


(R. Varadharajan)
Member (Judicial)