

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

(IB)-313(PB)/2017

IN THE MATTER OF:

M/s. Sudhir Sales Services Ltd.

.... Applicant/Petitioner

v.

D-Art Furniture Systems Pvt. Ltd.

.... Respondent

under Section 9 of IBC

Order delivered on 24.10.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Applicant/Petitioner: Mr. Piyush Kaushik, Advocate

For the Respondent: Mr. Sumesh Dhawan & Ms. Vatsala Kak, Advocates

ORDER

Learned counsel for the respondent has raised various preliminary objections. Based on the judgment of the Hon'ble NCLAT passed in the case of Jord Engineers India Ltd. v. Valia & Company, Company Appeal (AT) (Insolvency) No. 158/2017 decided on 13.10.2017 objections have been raised that notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 is defected in as much as the notice has been issued by an Advocate without placing anything on record establishing the relationship between the Operational Creditor and the Advocate. It has also been argued that the notice is not in the required form. Likewise, the mandatory provisions of Section 9 (3) (b) and 9 (3) (c) have also not been complied with, which are mandatory in as much as the certificate issued by the Bank under Section 9 (3) (c) is defected and no affidavit has been filed to show that there is no record of dispute.

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6/11/17

Confronted with the aforesaid situation learned counsel for the petitioner states that seven days' time be given in terms of Section 9 (5) (ii) read with proviso and as per interpretation given to the aforesaid provision by Hon'ble the Supreme Court in the case of M/s. Surendra Trading Company v. M/s. Juggilal Kamalapat Jute Mills Company Limited and Ors., Civil Appeal No. 8400/2017 decided on 19.09.2017.

Let the needful be done as per the requirement of law within seven days with a copy in advance to the learned counsel for the respondent.

List for arguments on 21.11.2017.

Sd/-
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT
Sd/-
(DEEPA KRISHAN)
MEMBER(TECHNICAL)

24.10.2017
Vineet