

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
C.P. NO.181/I&BP/NCLT/MAH/2017
Under Section 9 of IBC, 2016

In the matter of

Sylvester Forwarders Pvt. Ltd....Operational Creditor/Petitioner

vs.

Nhava Sheva Gateway Terminal Pvt. Ltd Corporate Debtor/
Respondent.

Order delivered on 21.7.2017

Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)
Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Allez Gajdar, Advocate, i/b Veritas Legal

For the Respondent: Mr. Zal Ardhajuniya, Mr. Shailesh Shukla, Mr.
Pratik Pawar and Ms. Manasvi Nandu, Advocates, i/b J. Sagar
Associates

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

1. This is a Company Petition filed under Section 434 and 433 (1) (e) of the Companies Act, 1956 against the Corporate Debtor herein on the ground that this Corporate Debtor defaulted in making payment of ₹3,17,88,316.76 for the services rendered by this Operational Creditor. Thereafter, on the jurisdictional transfer, this matter, being governed by Section 9 of the Insolvency and Bankruptcy Code, 2017, has come before this Bench for hearing.

2. The case of the Petitioner herein is that the Petitioner herein is the Operational Creditor, rendering the clearing and forwarding services to the Corporate Debtor herein. For this Corporate Debtor owed to the Petitioner to pay ₹3,17,88,316.76, the petitioner initially filed the Company Petition before the Hon'ble High Court of Bombay, now since this matter has come up before this Bench under Section 9 of the Insolvency and

Bankruptcy Code, 2016, the Corporate Debtor has come up with a defense stating that Suit No.55/2015 has already been filed on the same subject matter before a Civil Court on the ground services rendered by the Petitioner herein are deficient.

3. For this Bench having noticed that this claim is squarely falling within the definition of "dispute" mentioned in Section 5(6) and Section 8 of the Insolvency and Bankruptcy Code, 2016, the same not being disputed by the Petitioner as well, this Petition is hereby dismissed without going into the merits of the case giving liberty to the Petitioner to proceed in accordance with law

Sd/ -

V. NALLASENAPATHY
Member(Technical)

Sd/ -

B. S. V. PRAKASH KUMAR
Member (Judicial)

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