

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

**Company Appeal (AT) (Insolvency) No.1388 of 2022
& I.A. No. 4329 of 2022**

IN THE MATTER OF:

Avneet Goyal

...Appellant

Versus

Radha Kishan Gobind Ram Ltd.

...Respondent

Present:

For Appellant: Mr. Ashish Dholakia, Sr. Advocate with Mr. Gautam Bajaj and Mr. Arpit Kumar Singh, Advocates.

For Respondent: Mr. Vinay K. Gupta and Mr. Mehul Gupta, Advocates.

ORDER

22.11.2022: This Appeal has been filed against the order dated 13.09.2022 by the Appellant who had filed Section 9 application claiming debt and default. Corporate Debtor has opposed the application and filed a reply stating that there was no supply and no delivery was received by the Corporate Debtor. The Adjudicating Authority considering the submissions of the parties accepted the case of the Corporate Debtor. The defence of the Corporate Debtor was held to be valid defence and on the said ground the application was rejected.

2. Learned counsel for the Appellant submits that certain observations have been made in the order which may be prejudicial to the Appellant, if the matter is taken in a regular court for establishing case of the Appellant.

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3. We are of the view that in Section 9 proceeding the Court has not to enter into evidence and record findings like a Civil Court. Prima facie relying on the defence of the Corporate Debtor the Section 9 application has been rejected. We do not find any error in the rejection of section 9 application which may warrant interference in the impugned order in exercise of our appellate jurisdiction. Appeal is dismissed. We, however, make it clear that the dismissal of Section 9 application shall not preclude the Appellant from taking any such remedy as available in law.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

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

Archana/nn