

Amrop India Private Limited v. The Hi-Tech Gears Limited (Company Appeal (AT) (Insolvency) No. 1251 of 2023)

Facts:

- Operational Creditor Amrop India Pvt Ltd sent notice to Corporate Debtor Hi-Tech Gears Ltd demanding payment of Rs. 29 lakhs for recruitment services.
- Corporate Debtor replied disputing the claim due to deficiencies in services and raised a counter claim of Rs. 1.37 crores.
- Operational Creditor filed Section 9 application for initiation of CIRP against Corporate Debtor.
- NCLT rejected the application on the ground of existence of pre-existing dispute between the parties regarding deficiencies in services.

Court's Elaborate Opinion:

- The dispute must relate to the debt claimed and must exist at the time of Section 8 notice or Section 9 application for it to be a valid ground of rejection.
- The tone and tenor of emails exchanged between parties before Section 8 notice clearly show existence of disputes regarding deficiencies in services by Operational Creditor.
- The payment was made contingent on resolution of performance issues which shows pre-existing dispute.

- Section 9 proceeding cannot be initiated for disputed operational debts.
- The Adjudicating Authority rightly concluded that conditions of Section 9 were not fulfilled due to existence of pre-existing dispute.

Sections:

Section 8 – Requirements for demand notice by Operational Creditor

Section 9 – Requirements for application for initiation of CIRP by Operational Creditor

Section 9(5)(ii) – Grounds for rejection of application, including existence of dispute

Referred Cases:

Aroon Kumar Aggarwal v. ABC Consultants Pvt. Ltd. – Distinguished on facts regarding nature of dispute.