Panjwani Electrical Engineers and Consultants v. Larsen And Toubro Ltd (Company Appeal (AT) (Insolvency) No.1399 of 2023)

Facts:

– This is an appeal filed by Panjwani Electrical Engineers and Consultants (appellant) against an order rejecting their application under Section 9 of the Insolvency and Bankruptcy Code 2016.

- The appellant had done some work for Larsen And Toubro Ltd (respondent) as per a work order. There was correspondence between the parties regarding payment owed to the appellant.

- The appellant issued multiple legal notices to the respondent demanding payment of around Rs. 1.8 crores.

- The respondent replied to a notice dated 28.02.2019, denying all claims and stating no amount was due.

 The appellant filed an application under Section 9 of the Code which was rejected by the NCLT, citing a pre-existing dispute.

Court's Elaborate Opinion:

The NCLT took note of the respondent's letter dated
28.02.2019 which refuted the claims in detail.

- The termination of the work order on 02.01.2019 before the Section 8 notice dated 20.05.2019 also showed a dispute.

- The respondent clearly denied any liability to pay in its

reply dated 28.02.2019, hence a pre-existing dispute existed.

– Merely because emails did not show a dispute would not negate the existence of a pre-existing dispute.

 The NCLAT upheld the NCLT's order rejecting Section 9 application in view of the pre-existing dispute.

Sections:

– The appeal is filed under Section 61 of the Code against an order under Section 9.

 Section 9 allows operational creditors to file an application for initiating corporate insolvency resolution process.

 However, Section 9(5)(ii)(d) bars such an application if notice of dispute had been received by the operational creditor.

Referred Cases:

No specific cases have been referred to in the order.

The key points are the pre-existing dispute evidenced by the respondent's denial of all liability prior to the Section 8 notice, based on which NCLT and NCLAT rejected the Section 9 application. The order clarifies that correspondence showing no dispute would not override an express denial of liability demonstrating a pre-existing dispute.