

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

**Company Appeal (AT) (Ins) No. 1003 of 2021**

**IN THE MATTER OF:**

**Rajasthan Drugs and Pharmaceuticals  
Ltd. Through its Authorised Representative  
Laiqur Rahman Khan  
Versus**

**...Appellant**

**ATE Project Pvt. Ltd. & Ors.  
Present:**

**...Respondents**

**For Appellants : Mr. Manoj K Srivastwa, Advocate  
For Respondents : Mr. Alok Tripathi and Ms. Pooja Aggarwal,  
Advocates for R-1.**

**O R D E R**

**22.08.2022:** This Appeal is directed against the order dated 11.11.2021 passed by the Adjudicating Authority (National Company Law Tribunal, Jaipur Bench) in CA (IB) No.324/9/JPR/2019 by which an Application filed by the Operational Creditor/Respondent No.1 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for short 'Code') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been admitted. In short, the Appellant (Corporate Debtor) invited tenders for various works in the year 2015. The Respondent No.1 being the Successful Bidder was awarded the contract on 04.12.2015 which was accepted by the Appellant on the same date through email. In pursuance thereof, the Corporate Debtor issued various purchase orders dated 28.12.2015, 29.12.2015 & 23.12.2015 worth Rs. 5,38,50,590/-.

It is averred by Respondent No.1 that after depositing the security and receiving the advance it started working and submitted the running bills. However, the Respondent No.1 received a letter dated 17.01.2017, issued by the Government of India on 09.01.2017 regarding the shutting down of the Corporate Debtor as a result thereof, the working at the site was stopped and Respondent No.1 was informed that the outstanding liabilities, whatsoever, shall be cleared. The Appellant vide letter dated 17.01.2017 asked the Corporate Debtor/Respondent No.1 to send the total outstanding dues on which the Corporate Debtor had submitted the details of the Principal amount of Rs. 1,80,36,531/- accrued as on 26.03.2017 against all the three agreements, which was due since October, 2016. Since, there was no response by the Appellant to the amount demanded by the Respondent No.1, it sent a legal notice dated 11.01.2019 demanding the outstanding payments. It also filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 for seeking direction qua the Corporate Debtor to handover the C-Form for the material supplied. But the said application was rejected on the technical ground that mandatory injunction cannot be granted. Thereafter, the Respondent No.1, issued a demand notice dated 13.11.2019 under Section 8 of the Code claiming an amount of Rs. 2,98,79,294.12/- as the operational debt.

In the said application notice was issued to the Appellant who appeared for the purpose of filing of Reply and thereafter chose not to appear even on the date when the case was finally heard on 23.09.2021. However, the Tribunal took into consideration the Reply filed by the Appellant herein and passed the impugned order.

Counsel for the Appellant has vehemently argued that the Respondent No.1 has not submitted the joint measurement. But at the same time he has failed to reply as to whether at any point of time the Appellant had asked Respondent No.1 in that regard. Counsel for the Appellant has then argued that since it is a Government Company therefore it should be spared from the insolvency. We are really amazed with this amusing argument raised by Ld. Counsel for the Appellant because on the one hand it is argued that it is a Government Company therefore, Insolvency proceedings should not be carried out against it and on the other hand the Government Company did not choose to look after its interest before the Tribunal as it hardly appeared and remained silent. We have been crying hoarse that the litigation of the Government is not being looked after the way it should have been and this is one of such examples.

No other arguments have been raised. In view of the aforesaid facts and circumstances we do not find any error in the Impugned order which requires our interference and hence, the Appeal is dismissed. No costs.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

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

sr/rr

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