

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 288 of 2017

IN THE MATTER OF:

Jindal Steel & Power Ltd.

...Appellant

Vs.

DCM International Ltd.

...Respondent

**Present: For Appellant: - Mr. Manoj K. Singh, Ms. Daizy Chawla,
Mr. Vineet Arora and Mr. Shresth Sharma, Advocates.**

For Respondent:- None.

O R D E R

28.11.2017- Admittedly, the Appellant is a tenant of Respondent- 'Corporate Debtor'. Even if it is accepted that a Memorandum of Understanding has been entered between the parties in regard to the premises in question, the Appellant being a tenant, having not made any claim in respect of the provisions of the goods or services and the debt in respect of the repayment of dues does not arise under any law for the time being in force payable to the Central Government or State Government, we hold that the Appellant tenant do not come within the meaning of 'Operational Creditor' as defined under sub-section (20) read with sub-Section (21) of Section 5 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to 'I&B Code') for triggering Insolvency and Bankruptcy Process under Section 9 of the 'I&B Code'.

2. For the said reasons, the Adjudicating Authority having dismissed the application under Section 9 of the 'I&B Code' by the impugned order dated 6th October, 2017, no interference is called for.
3. In absence of any merit, the appeal is dismissed. No Cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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