

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**SPECIAL BENCH**

**Item No. 126**  
**(IB)-486(PB)/2018**

**IN THE MATTER OF:**

Usha Devi	....	Applicant / Petitioner
Vs		
Praveer Construction Pvt. Ltd.	....	Respondent

**SECTION:**

**Under Section 7 of Insolvency & Bankruptcy Code, 2016**

**Order delivered on 04.02.2019**

**Coram:**

**CHIEF JUSTICE (RTD.) M. M. KUMAR**  
**HON'BLE PRESIDENT**

**SH. PRADEEP R. SETHI,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENTS:**

For the RP:	Mr. Rakesh Kumar, & Mr. Sahil Gupta, Advs along with Mr. Alok Kaushik, RP in Person
For the FC:	Mr. Vimal Jetha, Mr. Snehkant Soni, Mrs. Hemlata Soni, Mr. Manab Charkraborty, Advs  Mr. Deepak Dahiya & Mr. Sachin Malik in CA -1241
For the OC:	Mrs. Kusum Khurana, Adv

**ORDER**

**CA - 1241**

This an application with a prayer to review the order dated 15.10.2018 and for setting aside the exparte proceedings initiated against the applicant – corporate debtor.

It is appropriate to mention that vide order dated 15.10.2018

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dpk  


the petition was admitted, after the corporate debtor was proceeded as ex-parte vide order dated 14.06.2018. The order dated 14.06.2018 reads as under:

*“ An affidavit of service filed by the petitioner show that the email has been duly received by the corporate debtor and a copy of the email sent has been placed on record as Annexure – A. The email address is the same which is given in the master data. Despite service no one put in appearance on behalf of the corporate debtor-respondent. Hence, respondents are proceeded exparte.*

*List for arguments on 23<sup>rd</sup> July, 2018.”*

Even after 14.06.2018 the corporate debtor could have joined proceedings but no one preferred to appear and eventually the petition under section 7 was admitted in respect of the applicant – corporate debtor on 15.10.2018

Against the admission order the applicant – corporate debtor filed company appeal (AT) (Insolvency) No. 711 of 2018 and the same was dismissed as withdrawn, allowing the applicant-corporate debtor to pursue appropriate remedy before the National Company Law

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Appellate Tribunal – Adjudicating Authority. The order dated 19.11.2018 reads as under: -

*“19.11.2018: After hearing learned counsel for the Appellant for a while he offered to withdraw the appeal. His prayer is allowed. The appeal is accordingly, dismissed as withdrawn. The Appellant shall be at liberty to pursue appropriate remedy before the Adjudicating Authority (National Company Law Tribunal), Principal Bench, New Delhi.”*

Notice of the application was issued and learned counsel for the Resolution Professional has put in appearance.

Reply to the application has also been filed on 09.01.2019.

Resolution Professional and financial creditor in their replies have stated that the applicant – corporate debtor is habitual in causing delay and an example has been cited in the form of order passed by Delhi High Court on 19.07.2016 in CO. PET. No. 103/2015.

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We have heard the applicant Mr. Sudhir Khurana in person. He has raised only one contention that there was no default and the whole account was settled by agreement dated 28.03.2012 (exhibit no. 6). It has been found that the corporate debtor failed to pay the assured return and only a part of the amount has been paid and a sum of Rs. 1,04,26,000/- is due and payable as on 18.04.2018. The agreement dated 28.03.2012 has been duly dealt with. Thus, we don't file any merit in the application.

The application stands dismissed.

**CA-1315(PB)/2019**

A copy of the application be served on Mr. Sudhir Khurana, Ex-director of the corporate debtor who is present in the court. Reply to the application be filed. He also accepts notice on behalf of his wife Ms. Meneka Khurana.

A Copy of the paper book has been handed over Mr. Sudhir Khurana who is present in the court. Respondent No. 3 & 4 may also file their reply as the service is complete.

List on argument on 26.02.2018.

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**CA - 36(PB)/2019**

This is an application seeking direction to the member of the CoC. He has made a statement that he has instruction to say that all the four members out of six members of CoC will cast their votes in the next CoC meeting.

In view of the statement made, the application stands disposed of.



**(M.M. KUMAR)  
PRESIDENT**



**(PRADEEP R. SETHI)  
MEMBER (TECHNICAL)**