

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-523
IB-3106/ND/2019
New IA/1756/2020

IN THE MATTER OF:

Neeraj Singla
V/s
M/s Lotus Woodtech Pvt Ltd

....Applicant

....Respondent

SECTION
U/s 9 IBC

Order delivered on 09.03.2021

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant
For the Respondent

:
: CA Devnidhi Arya, Advs. Mansij Arya, Priyanka, Vaibhav
Kulkarni, Shwetha Prabhakar and Uttiyo Mallick

ORDER

Heard the Ld. Counsel for the applicant as well as respondent and perused the averments made in the application. Ld. Counsel for the applicant submitted that out of four matters, two matters are listed before this Bench and other two matters are listed before the Bench-III of NCLT, New Delhi. He further submitted that Bench-III has transferred both the matters to the Principal Bench. Therefore, in view of the same, these two matters may also be transferred to the Principal Bench. He further submitted that for the ends of justice, it is necessary to hear all the matters together.

On the other hand, Ld. Counsel for the opposite party opposed the prayer on the ground that Section 60(5) IBC is not applicable.

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In the light of the submissions raised on behalf of the parties, at first, we would like to consider this submissions of applicant that since the Bench-III has transferred both the matter to the Principal Bench, therefore, in the light of that order, these two matters may also be transferred to the Principal Bench.

At this juncture, we would like to refer Rule 16 of the NCLT Rules, 2016, which deals with the functions of the President, NCLT. Rule 16 (d) & (e) deals with the power of “transfer of the case from one Bench to other Bench when the circumstances so warrant” and “to withdraw the work or case from the court of a member”. The relevant Rule 16 is quoted below:

16. Functions of the President.-

(d) transfer any case from one Bench to other Bench when the circumstances so warrant;

(e) to withdraw the work or case from the court of a member.

In the light of aforesaid Rule, when we consider the submissions made on behalf of the applicant, then we are of the considered view that a Co-ordinate Bench or even this Bench has no power to transfer the matter to the Principal Bench. This power is only vested with the President, NCLT to transfer the matter from One Bench to another Bench or withdraw the work or case from the court of a member. So, under such circumstances, we are unable to accept the contention of the applicant to transfer the matter of the applicant and at the same time, we are also unable to accept the prayer of the applicant to consolidate all the matters for hearing.

We further notice that in course of hearing, except 60 (5) IBC, the Ld. Counsel for the applicant has not placed any other provision of law under which the Adjudicating Authority is empowered to consolidate all the matter, which are pending before the Bench or before the different Bench of the NCLT.

Therefore, in view of Rule 16 of NCLT Rules we are of the considered view that this power is vested only with the President, NCLT and not vested with any of the Bench of the NCLT. Hence, we find no merit in the present application. Therefore, the prayer made in the



present application is rejected. The **application is dismissed**. However, the applicant is at liberty to file appropriate application before the Principal Bench.

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List the main application on **20.04.2021**.

Sd/-

(K.K. VOHRA)
MEMBER (T)

Sd/-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)