

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT - IV

ITEM No. 102

IA No.- 3220/ND/2020 in IB-822/ND/2020

IN THE MATTER OF:

Envitech Consultants India Pvt. Ltd. ... Applicant/Petitioner

Vs

Rudrabhishek Enterprises Ltd. ... Respondent

Order under Section 9 of IBC.

Order delivered on 14.10.2020

Coram:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)**

**MS. SUMITA PURKAYASTHA,
HON'BLE MEMBER (TECHNICAL)**

PRESENTS:

For the Applicant	: Mr. Anshul Gupta, Mr. Nihaar Reddy, Mr. Deepesh Raj
For the Respondent	: Mr. Sakal Bhushan, Mr. Surendra Kumar, Mr. Kunal Sawhney

ORDER

Present application is filed under Section 9 of the Insolvency & Bankruptcy Code by an Operational Creditor seeking to initiate CIRP against Corporate Debtor. At the stage of issuance of notice, Learned Senior Counsel Mr. Sakal Bhushan raised an objection of maintainability and prayed for dismissal on the ground that the Operational Creditor has filed an application in 2019 whereas the company is struck off in 2018. The Learned Counsel for

applicant has placed two orders of Hon'ble Delhi High Court and two of Hon'ble National Company Law Appellate Tribunal stating that the Tribunal has ample power to revive the company and take present proceedings further by issuing notice. The learned counsel has relied on following judgements.

1. M/s Value Advisory Services Versus M/s ZTE Corporation bearing Ex.P.198/2012.

2. Mr. Hemang Phophalia Versus The Greater Bombay Cooperative Bak Limited & Ors. Bearing Company Appeal (AT) (Insolvency) No. 765/2019

3. Elktrans Shipping Pte Ltd.Vs. Pierre D'silva and Anr.

4. Commissioner of Income Tax-8 Versus The Registrar of Companies bearing TCP No. 244/(MB) 2017

The Learned Senior Counsel Mr. Sakal Bhushan read out said judgments and argued that the said judgements are not applicable in case of the company which is struck off, if it is a operational creditor but the same is applicable if the company stuck off is corporate debtor.

Heard, Learned Counsel for both the sides. Considering the judgments and arguments placed we agree with the views taken and submissions made by Learned Senior Counsel Mr. Bhushan

and are of opinion that the application is not maintainable and fails. Application is rejected.

IB-822/2020 is rejected and disposed of.

Sd/-
SUMITA PURKAYASTHA
MEMBER (T)

Sd/-
DR. DEEPTI MUKESH
MEMBER (J)

Mukesh- 14.10.2020