

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 824 of 2020

IN THE MATTER OF:

Shiva Graphite Resources Pvt. Ltd.

...Appellant

Versus

Rathi Steel and Power Ltd.

...Respondent

Present:

**For Appellants: Mr. Vikrant Pachnanda and Mr. Nitin Kumar Chahar,
Advocates.**

For Respondent:

O R D E R
(Through Virtual Mode)

28.09.2020: Heard Mr. Vikrant Pachnanda, learned counsel representing the Appellant.

It appears that Appellant's application under Section 9 of I&B Code was rejected by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench V, as being barred by limitation. Wading through the record it comes to fore that the default occurred on 20th April, 2014 and the application under Section 9, which was required to be filed within three years in terms of Article 137 of the Limitation Act, was preferred in November, 2018. The debt was clearly barred by limitation. It further emerges that the Appellant had filed a suit for recovery against the Respondent – Corporate Debtor. Learned counsel for the Appellant submits

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that suit was dismissed for having been filed in a Court lacking territorial jurisdiction. In view of this Development, learned counsel for the Appellant offers to withdraw the appeal. While allowing him to do so and disposing of the appeal as withdrawn, we grant liberty to the Appellant to pursue all remedies available under law.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

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

am/gc