

Allahabad Bench

C P No.(IB) 289/ALD/2018,
CA No. 140/2019ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON 27.05.2019NAME OF THE COMPANY: Mind Makers Communications Pvt. Ltd. Vs. Octagon Builders &
Promoters Pvt. Ltd.

SECTION OF I & B CODE: 9 IBC

Sl. NO.	Name	Designation	Representation	Signature
1.	SANJEEV PANDA	Advocate	Counsel for the applicant/IRP	<i>[Signature]</i> 27/05/19
2.				

CP NO. (IB) 289/ALD/2018, CA No. 140/2019

Sh. Sanjeev Panda, Advocate for the IRP is present.

The IRP moves the present CA No. 140/2019 by bringing to our notice this important fact that prior to passing an admission order by this Adjudicating Authority on 16.04.2019 the Hon'ble Delhi High Court has please to passed a winding up order on 27.08.2018 in respect of the same company ^{vide} petition No. 147/2014 and pleased to appoint official liquidator attached to the Hon'ble Delhi High Court as a liquidator in respect of the Company and further directed to make a paper publication to this effect in the newspaper.

However, such fact was not brought to the notice of this Court by the Operational Creditor since the Respondent/Corporate Debtor remained an ex-parte.

Prima facie, it is settled position of law that IBC proceedings can be continued during the pendency of a winding up petition but it cannot be ^{provided} ~~it~~ as an official liquidator is appointed by the Hon'ble High Court and winding up order is passed.

In these circumstances, the admission order by this Bench dated 16.04.2019 needs reconsideration.

Hence, a formal notice be issued to the Operational Creditor by the Registry of this Tribunal as well as the copy of this be communicated to the O.L ~~of~~ attached to the Hon'ble Delhi High Court for apprising of factual position as per the record in respect of the present Corporate Debtor company. Meanwhile the I.R.P may not proceed with the CIRP.

List the matter on 23rd July, 2019.

Dated: 27.05.2019

[Signature]
SAROJ RAJWARE,
MEMBER (T)

[Signature]
H.P. CHATURVEDI,
MEMBER (J)