

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**

ITEM No. 301- Rest. A/3(AHM)2023  
in  
**CP(IB)/68(AHM)2022**

**Proceedings under Section 9 IBC**

**IN THE MATTER OF:**

Jayarajneon Engineering Construction Pvt Ltd  
V/s  
Neo Structo Construction Pvt Ltd

.....**Applicant**

.....**Respondent**

**Order delivered on 11/01/2024**

**Coram:**

**Mrs.ChitraHankare, Hon'ble Member(J)**  
**Dr.Velamur G VenkataChalapathy, Hon'ble Member(T)**

**ORDER**

The matter is listed today for pronouncement of order. The order is pronounced in open court vide separate sheet.

SD/-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

SD/-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD BENCH**  
**COURT NO. II**

**Rest. A.03 of 2023**

**IN**

**CP (IB) 68/(AHM)/2022**

[An application filed under Section 44 of the NCLT Rules for Restoration of petition No. CP(IB) 68 of 2022]

**In the matter of**

Jayaraj Neon Engineering & Construction Pvt.Ltd.  
KP4/110, TharayilKizhakkathil,  
Puthiyavila, Kaymkulam  
Alapuzha-690531, Kerala,  
India

..... Applicant

**VERSUS**

Neo Structo Construction Pvt. Ltd  
101-104, GCP Business Centre,  
Opp. Memnagar, Fire Station,  
Vijay Cross Road,  
Ahmedabad GJ380014

...Respondent

**In the matter of:**

**CP (IB) 68/NCLT/AHM/2022**

[An application under Section 9 of Insolvency and Bankruptcy Code, 2016]

Jayaraj Neon Engineering & Construction Pvt.Ltd.

....Operational Creditor

Versus

Neo Structo Construction Pvt. Ltd

... Corporate Debtor



**Order pronounced on 11/01/2024**

**CORAM:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**DR. V.G. VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant: Mr. Dhiren Dave, Ld. Advocate

For the Respondent: Mr. Satyasrikant Vutha, Ld. Advocate

**J U D G E M E N T**

1. The Application is filed under Regulation 44 of the National Company Law Tribunal Rules, 2016 ("hereinafter referred to "NCLT Rules") for Restoration of Petition No. CP(IB) 68 of 2022 filed by the Applicant/Operational Creditor i.e. M/s. Jayaraj Neon Engineering & Construction Pvt. Ltd.
2. The Applicant who is the Director of the Operational Creditor Company has filed this application seeking following reliefs:
  - i. That the Original CP (IB) No. 68 of 2022 be restored and CIRP process be commenced against Corporate Debtor.*



ii. Any other reliefs the Hon'ble NCLT may deem fit.

3. It is averred in the application that an application CP (IB) No. 68 of 2022 has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("hereinafter referred to "IBC, 2016") was listed on 09.01.2023 before this Tribunal and was dismissed as follows:

*As recorded in the order dated 21.09.2022, Learned Counsel Ms. Swagata for applicant sought and was granted indulgence to file Vakalatnama. Vakalatnama is not filed till date on e-portal. Today, Ms. Pinal Shukla, Learned PCS requests that arguing Learned PCS is in difficulty and seeks adjournment. On 15.11.2022, Learned Counsel for the applicant stated that settlement talks are going on but the Learned Counsel for the Corporate Debtor stated that she does not have any instruction, and as a last chance, matter was adjourned for hearing. Today also, no categorical submission is made regarding settlement, nor matter is being argued. It is apparent that the applicant is not interested in pursuing this application. In view of the above, matters stands disposed of.*

4. It is stated that the Applicant set out various grounds in the petition on several legal and factual aspects, which are not repeated herein for the sake of brevity and may be read as part and parcel of the present application. It is stated that Application is being moved by the applicant seeking restoration of the main matter.
5. It is stated that considering ongoing talks and arbitration proceedings before the Hon'ble High Court, the Applicant



were in talk with another Advocate to represent his case before the Hon'ble High Court as well as before this Tribunal. Both parties were before Arbitration and related talks and avoided to make submissions before this Tribunal. From the order it is evident that even Corporate Debtor did not press the matter for hearing. In the meantime, this Tribunal dismissed the CP 68 of 2022 on 09.01.2023. After dismissing the Application the Respondent did not pursue Arbitration proceedings and talks as well, hence, this application.

6. Heard Ld. Counsels for both the sides. On perusal of the records, it is seen that an Arbitral Award is pending before the Hon'ble High Court, there is a clear pre-existing dispute between the parties. From the records it also may be seen that the Counsel for the Applicant/Operational Creditor after dismissing the main CP 68 of 2022 on 22.03.2023 , 04.07.2023, 04.09.2023 had not appeared for hearing and time and again proxy Counsel of the Applicant /operational Creditor sought adjournments. The applicant who also filed application in the CP No.68 of 2022 had not filed any reply or rejoinder to the reply of the respondent dtd. 16.04.2022, wherein there has been objection raised in the matter of the invoice/claimed on the debt stated to be is default. The Corporate Debtor has



**Rest. A. 03 of 2023 in CP(IB)/68(AHM) 2022**

also objected to the restoration of the matter. The reasons shown in his application are not reasonable and implausible particularly when the matter is pending before the other Court. Hence we pass following order :

**ORDER**

The application is dismissed.

SD/-

**DR. V.G. VENKATA CHALAPATHY  
MEMBER(TECHNICAL)**

SD/-

**CHITRA HANKARE  
MEMBER(JUDICIAL)**

vc