

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, CHENNAI

MA/720/2019
In
TCP/373/IB/CB/2017

In the matter of

M/s. Rocket Electric (India)

----Applicant

Vs

M/s. Krishna Energy Private Limited & 2 Others

--- Respondents

Order delivered on 19.08.2019

CORAM

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

ANIL KUMAR. B, MEMBER (TECHNICAL)


Counsel for the Applicant: *Shri. Amar Panwal, Advocate*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on 09.08.2019

As to MA/720/2019 filed for revival of the Company Petition TCP/373/IB/2017 already dismissed on 21.08.2017 as withdrawn with liberty to revive the Company Petition, we have not come across any provision of law or Rule under Adjudicating Authority Rules for restoration of the Company Petition dismissed as withdrawn.



2. By seeing an order of dismissal on withdrawal of company petition on 21.08.2017 with liberty passed by default not knowing that no provision is carved out under Adjudicating Authority Rules (IBC) for revival of a company petition dismissed, this Bench now cannot revive the petition already dismissed by seeing liberty given on 21.08.2017 because Tribunal cannot exercise jurisdiction not conferred upon it.

3. Normally procedure for revival will be envisaged like in C.P.C if at all petition is to be revived, but here no procedure is set out. When no such procedure is carved out in the Adjudicating Authority Rules, this Bench on its own cannot assume jurisdiction to revive the company petition by seeing an order passed dismissing the company petition with liberty for revival because this Tribunal is devoid of such jurisdiction. We are of the view that right of revival has been consciously vomited so as to keep the procedure simple and not to have procedural complications.

4. Therefore with all humility, we hereby observe that this Bench not being endowed with jurisdiction for revival, this MA shall be

dismissed. However, it is pertinent to mention that this Petitioner is not barred from initiating fresh proceeding basing on fresh cause of action arose against the Corporate Debtor.

5. Accordingly this MA/720/2019 is hereby **dismissed**.

-SD-
ANIL KUMAR B
MEMBER (TECHNICAL)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

GHK