IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

IA/2/2021 IN CP/737/IB/2018

Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") r/w Rule 11 of the National Company Law Tribunal Rules, 2016

In the matter of **M/S. SANDHHYA SHIPPING SERVICES PRIVATE LIMITED**

MR. RAJAGURUSAMI MAHESHWARAN,
Resolution Professional,
IIA/GF Dee Cee Victoria Apartment,
78-1 (69), East Lokamanya Street,
R.S Puram, Coimbatore – 641 002.

…. Applicant / Resolution Professional

ALONG WITH

IA/8/2021 IN CP/737/IB/2018

Section 12 A of the Insolvency and Bankruptcy Code, 2016 ("Code") and under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016, r/w Rule 11 of the national Company Law Tribunal, Rules, 2016.

For

Withdrawal of Application admitted under Section 9 of the Insolvency and Bankruptcy Code, 2016

MR. RAJAGURUSAMI MAHESHWARAN,
Resolution Professional,
IIA/GF Dee Cee Victoria Apartment,
78-1 (69), East Lokamanya Street,
R.S Puram, Coimbatore – 641 002.

…. Applicant / Resolution Professional

Order Pronounced on 3rd May, 2021

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : Shubharanjani, Advocate
Resolution Professional : Rajagurusami Maheshwaran, in person

COMMON ORDER

Per: **R. VARADHARAJAN, MEMBER (JUDICIAL)**

1. This is a classic case whereby the conduct of the Operational Creditor has subverted the entire Corporate Insolvency Resolution Process (CIRP) initiated by this Tribunal against the Corporate Debtor as the facts hereunder will vouch for the same.

2. The Petitioner/Operational Creditor had approached this Tribunal in CP/737/IB/2018 seeking for the initiation of CIRP in relation to the Corporate Debtor for default committed by the Corporate Debtor in the payment of a sum of Rs.5,73,423/- under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter to be referred to as **IBC, 2016**). It must be noted that the name of IRP was not proposed at the

time of filing the Petition before this Tribunal by the Operational Creditor.

3. This Tribunal came to admit the Petition as filed by the Operational Creditor. As a consequence of admission, CIRP was initiated against the Corporate Debtor vide its Order passed on 14.03.2019. While admitting the Petition and initiating the CIRP, the name of IRP in respect of Corporate Debtor was not proposed; this Tribunal in the absence of any IRP being proposed, appointed the Applicant as IRP herein and the extract of the name of the IRP along with other particulars from the above said Order dated 14.03.2019 is given below:

> Mr. Rajagurusami Maheswaran,
> Reg. No.IBBI/IPA-001/IP-P00584/2017-2018/11025
> E-mail Id: rgmaheswaran@gmail.com

4. It is pertinent to note that the above details in relation to the IRP had been circulated by Insolvency and Bankruptcy Board of India (*hereinafter to be referred to as* "**IBBI**") while circulating an empanelled list to this Tribunal for the period January to June 2019 and from which, in view of no proposal for IRP being made by the Operational Creditor, this, Tribunal

chose a name for appointment of IRP from the empanelled list as circulated by IBBI for the six months period and in the circumstances, it is evident that the particulars as reflected above in respect of the Applicant including the e-mail Id had been made available to IBBI, which in turn, had circulated the empanelled list of Resolution Professional/ Liquidator for the specified period.

5. Upon the pronouncement of Order by this Tribunal, wherein, a direction had also been given to the Registry of this Tribunal to communicate this Order to the parties, whose names have been mentioned in the said Order itself at paragraph 19, it is seen that the Order, in fact, had been communicated to the Applicant as well on 19.03.2019, which is evident from the Order passed by this Tribunal in MA/1427/2019 dated 09.03.2020 being an Application which was moved by the Applicant seeking for the extension of time in relation to the CIRP on the alleged ground that communication in respect of the appointment of the Applicant was received only on 27.11.2019 in comparison to the date of

passing the Order on 14.03.2019, from the Operational Creditor.

6. In relation to the e-mail sent on 19.03.2019 by the Registry of this Tribunal, it is alleged that the same had got itself lodged in the *"SPAM Folder of Mail Box"* in the e-mail of the Applicant and in the circumstances the IRP effectively was not aware of his appointment and hence the CIRP period of *"275 Days"* is required to be excluded commencing from 14.03.2019 until 13.12.2019 from the CIRP of the Corporate Debtor initiated by this Tribunal. However, this Tribunal vide a detailed Order dated 09.03.2020 was not inclined to do so (i.e.,) extend the time but on the other hand had observed that there had been an *"all-round dereliction of duty"* and absolute negligence and scanty disregard to the Insolvency Resolution Process on the part of the Operational Creditor and as well as the IRP.

7. Further, in the said Order, it was also pointed out that the Operational Creditor at least in its own interest and acting on behalf of the other Creditors, the CIRP being the

proceedings in rem, was required to communicate to the IRP/Applicant of the initiation of the CIRP, which has not been done in the instant case, as it is evident that, after obtaining the Order dated 14.03.2019 based on an Application filed by it, the Operational Creditor despite the appointment of the IRP, namely, the Applicant had not chosen to communicate the same or contact the Applicant in relation to the CIRP initiated by this Tribunal.

8. Thus, it is evident that, by the actions of the Operational Creditor, the entire CIRP initiated by this Tribunal taking into consideration the provisions of IBC and the strict time lines provided thereunder, which has also been pointed out by the Hon'ble Supreme Court to be followed with all seriousness in the matter of ***Arcelor Mittal India Private Ltd vs. Satish Kumar Gupta & Ors.,*** had been made a mockery and presently this Tribunal is confronted with an Application filed under Section 12(A) of IBC, 2016 for the withdrawal of the CIRP process at the instance of Operational Creditor by the Applicant that too after a lapse of almost 2 years.

9. It is averred in the Application based on the facts as narrated above that having come to know about the initiation of the CIRP from the Operational Creditor only in the month of November 2019, the IRP had chosen to issue the publications in *Form-'A'* calling for claims, however, bereft of any particulars as to when and how the publication was made etc. Pursuant to the publication of Form-'A' it is stated no claims had been received by the Applicant/IRP and when the IRP contacted the Operational Creditor as well as the Corporate Debtor, it was requested by both of them to abstain from continuing with the matter in view of the settlement talks/proposal between the parties and that on 23.10.2020 it is stated in the Application that a compromise had been reached between the Operational Creditor and the Corporate Debtor whereby a sum of Rs.4,00,000/- had been received by the Operational Creditor in full and final settlement of all the claims.

10. Pursuant thereto, *Form-'FA'* had been tendered by the Operational Creditor to the IRP in terms of Section 12A of IBC,

2016 r/w regulations 30(A)(1)(a) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and that the Operational Creditor being the Sole Member of the CoC had also agreed and accepted the said Form-'FA' for withdrawal and closure of CIRP in the meeting held on 29.10.2020 and pursuant thereto this Application has been filed relying upon the decision of the Hon'ble Supreme Court rendered in ***Swiss Ribbons Pvt Ltd., & Anr. Vs. Union of India & Ors [(2019) 4 SCC 17]*** for the exercise of inherent powers as contained under Rule 11 of NCLT Rules, 2016.

11. Based on the same set of facts during the course of submissions made in IA/8/2021, Ld. Counsel for Applicant/IRP also represents that an Application in IA/2/2020 has also been filed arising out of the Order passed by this Tribunal in MA/1427/2019, which had been challenged before the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.1013 of 2020 wherein the Ld. Counsel for the Applicant/IRP also brings to the notice of this Tribunal the penultimate portion of the Order

marked as Page No.36 to the typed set to the said Application, which reads as follows:-

> *"In the circumstances of the case, the appeal is permitted to be withdrawn with liberty granted to the Appellant to file an application before the Adjudicating Authority (National Company Law Tribunal), Division Bench-I, Chennai for re-visiting the impugned order and expunging the observations / remarks made against the Appellant as Resolution Professional, within one week"*

12. Pursuant to the above, Ld. Counsel for the Applicant/IRP represents that these two Applications have been filed before this Tribunal i.e., (1) seeking for withdrawal filed under Section 12A of IBC, 2016 numbered as IA/8/2021 and (2) under Section 60(5) of IBC, 2016 r/w Rule, 11 of NCLT Rules, 2016 numbered as IA/2/2021. In relation to the Application IA/8/2021, it is seen that the said Application has been filed seeking for withdrawal under Section 12A of IBC, 2016. Even though there has been an inordinate delay on the part of IRP to assume charge as such, in respect of the affairs of the Corporate Debtor, pursuant to the Order of Admission passed

by this Tribunal dated 14.03.2019 and initiating CIRP and appointing the IRP in relation to the Corporate Debtor.

13. However, it is evident from the averments contained in the Application that pursuant to the publications effected by the IRP in *Form-'A'* being clarified by Ld. Counsel for the Applicant upon specifically posted for clarification, on 03.01.2020 in *"Business Standard"* in English and again on the same day (i.e.,) 03.01.2020 in *"Malai Malar"* in Tamil as well and that no claims had been received other than that of the Operational Creditor and in the circumstances the Operational Creditor, at whose instance the CIRP was initiated, constituted the Sole Member of the CoC and given its consent by filing the necessary Form-'FA' annexed as Annexure-'A' along with the typed set filed along with the Application in IA/8/2021.

14. Perusal of the said Form-'FA' discloses that the Applicant has received all his dues and in the circumstances no bank guarantee as per sub-regulation (2) of Regulation 30A is required. The said statement stands recorded as it is concurred during the hearing by the Applicant that no

amounts are due towards the IRCP costs. Further, it is also evident that the Operational Creditor has instructed the Applicant herein to have the Application bearing CP/737/2018 to be withdrawn, primarily based on which Application, the CIRP of the Corporate Debtor was initiated.

15. Thus, in view of the averments contained in Application No.IA/8/2021 as well documents filed therewith including Form-'FA' dated 23.10.2020 and taking into consideration Section 12A of IBC, 2016 and the attendant Regulation 30A of IRCP Regulations as framed by IBBI as well as Rule 11 of NCLT Rules, 2016, the CIRP initiated by this Tribunal in relation to the Corporate Debtor, namely, M/s. Sandhya Shipping Services Private Limited, stands withdrawn consequent to the CP/737/IB/2018 being permitted to be withdrawn. However, the Operational Creditor is directed to remit a sum of Rs.10,000/-to *"PM CARES FUND"* by way of costs as the action of Operational Creditor in not intimating in time the IRP appointed by this Tribunal so that the CIRP could

have been taken up in the right earnest by the IRP, which cannot be condoned.

16. Now, coming to CA/2/2021 wherein the Applicant has prayed for the following reliefs arising out of the same set of facts (i.e.,) in relation to the CIRP of the Corporate Debtor, namely,

> *"(a) Expunge the remarks of "dereliction of duty and absolute negligence" made against this Applicant at Page 3 of the Order dated 09.03.2020 in MA/1427/2019 in CP/737/IB/2018 and thus render justice.*
>
> *(b) Pass such other or further Orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice".*

A careful perusal of the Order dated 09.03.2020 annexed as Annexure-'E' to the typed set filed along with the said Application and passed by this Tribunal, more particularly, the middle portion of Page 2 to 4 of the said Order discloses as follows:-

> *"It is also represented by the Ld. Counsel for the IRP/Applicant that Rule 50 of the NCLT Rules, 2016 stipulates that the Registry of this Tribunal is required to communicate to the parties concerned in relation to the Order passed by this Tribunal and that the same was not communicated, however, on the verification by the*

IRP/Applicant it was noticed that the same available in the SPAM folder of his mail Id sent on 19.03.2019 from which it is evidenced that the Registry had duly communicated about the appointment, however, the same was not opened for the reasons stated in the Application. Even though the CIRP has been initiated as early as on 14.03.2019 and 275 days have been lost it is to be seen even without making the public announcement calling for the claims of the Corporate Debtor by the IRP/Applicant and for the constitution of the CoC"

From the above paragraph reproduced, it is quite evident that the reasons for the Applicant/IRP not acting is touted to be that, since the communication sent by the Registry of this Tribunal of the Order dated 14.03.2019 had lodged itself in the SPAM FOLDER of the e-mail of the Applicant, he was not essentially aware of the Order dated 14.03.2019 initiating the CIRP of the Corporate Debtor and appointing him as an IRP.

17. The Applicant curiously also seeks to invoke the maxim *"actus curiae neminem gravabit"* with a view to plead that the Applicant is not at fault and if at all there is any fault, it is on the part of the Registry of this Tribunal which did not communicate the Order in accordance with Rule 50 of the NCLT, 2016. However, from the pleadings of the Applicant itself it is quite evident that the Registry of this Tribunal had

duly communicated the Order dated 14.03.2019 vide an e-mail dated 19.03.2019 from the e-mail address – 'registrar-chn@nclt.gov.in' to e-mail id of the Applicant 'rgmaheswaran@gmail.com', which e-mail id based on the same being furnished to the IBBI by the Applicant seeking for empanelment had been forwarded by IBBI to this Tribunal. This Tribunal in the matter of ***Takkshill Enterprises vs. IAP Company Pvt. Ltd*** has dealt in detail the procedure adopted by IBBI in this regard and importance of the pivotal position of IRP holds in the Scheme of IBC, 2016 and the relevant paragraphs are reproduced hereunder:-

ABOUT THE IMPORTANCE OF AN IRP IN THE CIR PROCESS:

> *"(8)..... In this regard, it is to be observed that IRPs carry a very serious onus for effectively carrying out the requirements under the provisions of IBC, 2016. For e.g. under Section 17 of IBC,2016 from the date of appointment of an IRP, the management of affairs of the CD are to vest in the IRP and the powers of the Board of Directors of the CD shall stand suspended and be exercised by the IRP. It is also provided in clause (d) of sub-section (1) of Section 17 of IBC, 2016 that the financial institution maintaining the accounts of the CD is required to act in accordance with the instructions of IRP. Further, officers of the CD are also required to report to the IRP and also to provide access to documents and records, as may be required by the IRP for the discharge of his functions. The duties of the IRP has been listed out under Section 18 of IBC,2016, wherein, one of the important duties of the IRP is to constitute a Committee of Creditors (CoC) after receiving the claims as envisaged under Section 21 of IBC, 2016 by collating*

all the claims against CD received by the IRP pursuant to public announcement, as required to be made within a period of 3 days from the date of admission, as provided under Section 15 of IBC, 2016 read with the attendant rules. It is also further worth while to observe that as per Section 16(5), the term of IRP shall not exceed 30 days from the date of his appointment. The reading of the above provisions of IBC,2016 clearly brings forth the importance of an IRP in the implementation of CIRP process and any laxity on the part of IRP or any hesitancy on the part of IRP to act in accordance with the provisions of IBC, 2016 virtually results in a setback, not only to the CIRP process, but to all the stakeholders concerned including the creditor who has approached this Tribunal in the first place for the initiation of the CIRP process, as well as to those similarly placed creditors as well as to the CD itself. Thus, the initial period of 30 days is very crucial under the provisions of IBC,2016 soon after the Petition is admitted, as during the said period, the control of the assets and affairs of a Corporate Debtor is effectively taken out of the hands of the persons who have been hitherto managing the affairs of the Corporate Debtor and on behalf of its behalf shareholders to the hands of the IRP for the benefit of creditors which process effectively stands stultified by the inaction on the part of the IRP.

ABOUT PREPARATION OF A PANEL OF RPSAND FOWARDING THE SAME TO NCLT:

(12) Thus, consequent to the notice served upon IBBI and IBBI having been impleaded as a party to this Application, IBBI has filed a detailed reply through its Deputy General Manager, wherein it has been stated that the Application as filed by the Applicant is not justified as it lacks merit since the issue raised is based upon an incorrect understanding of law. In accordance with the guidelines of December, 2017 as noticed above in this order, it is stated that the Board prepares a panel of IPs for appointment as IRP or liquidator and has shared the said panel with this Tribunal and that the said panel has a validity of 6 months and that a new panel replaces the earlier panel every 6 months. It is further pointed out in the affidavit that based on the expression of interest to be included in the panel for the relevant period by the IRP who is Applicant herein, his name has been included in the panel which has been forwarded to this Tribunal and in view of the same the prayer as sought for by the IRP in the Application cannot be encouraged particularly having come to know that he has been appointed as an IRP. It is also brought to the notice of this Tribunal by way of the above referred affidavit filed by IBBI that even though in the

present Application, the grounds of unavoidable circumstances has been cited seeking for the discharge, however, vide email annexed dated 26.4.2018 and as evidenced by Annexure A-4 filed along with the reply affidavit, the reasons given therefor is on the grounds of inability to devote adequate time to the subject assignment and in view of the same, the reasons for discharge advanced by the IRP are contradictory and non-maintainable it is stated. Taking into consideration, the guidelines, it is also pointed out that every assignment under the Code irrespective of its size and stake has the same importance under the law and is required to be seen with the same importance by the IRP. Provisions of Section 17 and 18 of IBC, 2016 which had already been referred to by this Tribunal in relation to the management of the affairs of the CD and the duties of IRP are also brought into focus in the affidavit. Specific relevance is also placed upon consent and Expression of Interest provided by the IRP to be empanelled in the list of IPs or Liquidators as forwarded to this Tribunal and having given his consent to act as a Resolution Professional or Liquidator for a period of 6 months commencing from 01.01.2018 to 30.06.2018, it is stated that the IRP should not be discharged from his duties to act as an IRP in relation to the CD as sought for in the Application and in the circumstances the functions of IRP being of serious nature and in the nature of public functions, the casual attitude should not be entertained.

ABOUT ROLE OF INSOLVENCY PROFESSIONAL AS REFLECTED IN THE BAKRUPTCY LAW REFORMS CERTIFICATE

(14).....In this connection, the role of the Insolvency Professionals on the one hand and on the other that of AA and their interplay has been succinctly brought in the Report of the Bankruptcy Law Reforms Committee Volume I, Rational and Design, 2015 and at Chapter 4.4 dealing with the Insolvency Professionals after elucidating the role of IPs in the process of Insolvency and Bankruptcy and while stressing the importance of IPs concludes with the following paragraph of Chapter 4.4, which is extracted hereunder:

> *The role of the IPs is thus vital to the efficient operation of the insolvency and bankruptcy resolution process. A well functioning system of resolution driven by IPs enables the adjudicator to delegate more and more powers and duties to the professionals. This creates the*

> *positive externality of better utilization of judicial time. The worse the performance of IPs, the more the adjudicator may need to personally supervise the process, which in turn may cause inordinate delays. Consumers in a well functioning market for IPs are likely to have greater trust in the overall insolvency resolution system. On the other hand, poor quality services, and recurring instances of malpractice and fraud, erode consumer trust.*

The above paragraphs brings in a nut-shell and concisely as to where the success or failure of IBC rests and nothing more is required to be said in this connection. Even though an attempt was made on the part of the Ld. Counsel for the Applicant that **Takkshill Enterprises** case will not have applicability in view of the facts being different with which we are also equally conscious of the same, but however in the present case we are concerned with the casual manner in which be it the Applicant or the parties to the main CP, have dealt with the Order passed by this Tribunal on 14.03.2019 and by their respective attitude thereby subverting the said Order and the procedure laid down under the IBC, 2016 all of which does not behove well in relation to its implementation which this Tribunal is compelled to take note of.

18. Further, as to whether the plea of e-mail landed in *"Spam Mail"* of the e-mail of the Applicant can lead to the invocation of maxim to the effect that the *'acts of the Court should prejudice none'*, we are unable to accept that the registry of this Tribunal had not performed its duty. Both under Section 7 and Section 9 of IBC, 2016, this Tribunal is required to communicate the Order of admission/rejection as the case may be in accordance with said provisions of Sections 7 and 9 as the case may be, and nowhere an onus has been placed upon this Tribunal for the communication of the Order of admission to the IRP appointed by this Tribunal.

19. It is also required to be noted that from the Order passed by this Tribunal on 14.03.2019 it had directed the Registry of this Tribunal to communicate the said Order to the Operational Creditor and the Corporate Debtor in terms of the provisions of IBC, 2016 and in relation to the Applicant had given his e-mail id for the purpose of communication of the said Order to which the Registry as already seen had duly communicated. Hence, there is no dereliction of its duty on

the part of the Registry as it is also required to be noted that Rule 50 of NCLT Rules, 2016, in relation to provision of certified copy of the Order, the Registry is required to send certified copy to the parties concerned free of cost and in all other cases to be made available with cost as evident from the bare reading of the said Rule 50 as extracted in the Application itself. The IRP appointed by this Tribunal can by no stretch of imagination be considered as a party to the Order dated 14.03.2019 and in the circumstances there is no gainsaying that Rule 50 of NCLT Rules, 2016 had not been followed.

20. The plea of *"Spam Mail"* due to which there had been a delay in compliance of necessary formalities, whether can be countenanced on the part of the party claiming the same fell for consideration in the matter of ***Opus Group AB vs. Ministry of Road Transport and Highways in WP(c)No.2999/2013*** before the Hon'ble High Court of Delhi, wherein the question which arose in short was that since the Respondent had communicated to a general e-mail

id as given in the bid form and not to the specific e-mail id as provided therein which had occasioned the delay in providing clarifications, thereby the Petitioner not winning the bid, as the one sent to the general e-mail id had got lodged in the "Spam Mail" of the e-mail id concerned. The Hon'ble High Court vide its Judgement dated 07.06.2013 had chosen to observe as follows in relation to the said plea at paragraph No.12 of the judgement, namely,

> *"(12) In the era of fast communication where E-Mails are exchanged across the globe on day to day basis and instructions are received by agents from the principals within a span of hours or within a day, it is quite un-reasonable or rather un-usual to expect that the company like Petitioner which gives an E-Mail Id as given id in the bidding form does not check the E-Mails for almost 18 days and discovers the E-Mail only on 11th March 2013. Such a lethargy from the company, which claims to be contesting a highly competitive bid cannot be expected and more so when the E-Mails are discovered in a short span of time and can be addressed to if they are attended precautious"*

Again at Paragraph No.17 of the judgement referred supra the Hon'ble High Court of Delhi has held as follows:

> *"(17) We also do not agree with the submission of the learned senior counsel Mr. Ravi Gupta that the E-Mail has gone into the spam folder and could not be discovered due to the fault of the respondent and thus resulted in belated reply. Firstly, we find that there is no fault as such on the part of respondent. The purpose of sending the E-Mail to the petitioner was to communicate with it on the given address which was done by*

the respondent though on one E-Mail ID. Thereafter, it was the petitioner's duty to discover the E-Mail from the folder and if the same has gone into the spam folder and the petitioner could not discover the said E-Mail due to the said reason, the same cannot by any stretch of imagination be the fault of the respondent but is a technical flaw in the computer system of the petitioner which becomes the responsibility of the petitioner to rectify. The said belated checking of the spam folder is thus not the mistake of the respondent but the responsibility of the petitioner to become more vigilant while keeping a track over its own communications".

21. A similar issue of the e-mail sent getting lodged in the "spam mail" of the recipient fell for consideration before the Hon'ble High Court of Punjab and Haryana in the matter of ***Nisha Devi vs State of Punjab & Ors*** relating to employment opportunity and the decision rendered on **04.07.2013** reported in **MANU/PH/2757/2013** is to the effect that where the e-mail had been sent to the recipient to the e-mail provided, but however had got lodged in the 'spam mail' of the said e-mail id, cannot be a ground for the relief sought for therein.

22. In the instant case on hand, it is required to be noted that upon the Applicant providing the information in relation to his e-mail id to IBBI seeking for empanelment in accordance with procedure laid down as discussed in **Takkshill**

Enterprises case referred supra, IBBI had forwarded the list of RP's/Liquidator's who can be appointed as such where the Operational Creditor has failed to propose a name and in the main Application in CP/737/IB/2018 since the Operational Creditor had failed to disclose a name of the IRP proposed, this Tribunal chose to appoint the Applicant as the IRP of the Corporate Debtor, M/s. Sandhhya Shipping Services Private Limited and based on the information forwarded by IBBI and as contained in the said list which had also been extracted in order of admission itself passed on 14.03.2019, the Registry of this Tribunal had also duly communicated the same to e-mail id of the Applicant on 19.03.2019. Hence, there is no scope for the invocation of the maxim as sought to be relied on, as the facts herein only points out to the absolute negligence on the part of the Applicant to thoroughly verify his e-mail which had resulted in the '*dereliction of duty*' on his part as enjoined by the provisions of IBC, 2016 which has also been extracted in brief from the Order passed by this Tribunal in **Takkshill Enterprises** case referred supra.

Thus, taking into consideration all the above, we are not in a position to consider the relief as sought for in IA/2/2021 and in the circumstances we are constrained to dismiss the same, however without costs.

-Sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-Sd-
(R. VARADHARAJAN)
MEMBER (JUDICIAL)

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