

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 22-07-2021 AT 2.30 P.M THROUGH VIDEO
CONFERENCING:

PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)

APPLICATION NUMBER : IA/1035/IB/2020
IN
PETITION NUMBER : CP/1397/2018
NAME OF THE PETITIONER : Asian wind Energy Pvt Ltd
NAME OF THE RESPONDENTS : Santha Spinning Mills Pvt Ltd
UNDER SECTION : Sec 420(2) of IBC, 2016

(15)

[IA/1035/IB/2020 IN CP/1397/2018]

ORDER

Ld. Counsel Mr. Vishnu Mohan for the Applicant is present.

This application is filed by the Applicant. CP/1397/2018 was dismissed by this Adjudicating Authority by order dated 14.03.2019. Aggrieved by this order, the Applicant had filed an appeal before the Hon'ble NCLAT in Appeal No.877 of 2019. By order dated 29.08.2019, the Applicant sought for withdrawal of this appeal before the Hon'ble NCLAT with liberty to appear before the Adjudicating Authority for clarification of the order dated 06.03.2019. However, the Hon'ble Appellate Court has permitted to withdraw the aforesaid appeal with liberty.

It is well settled principle of law that the Adjudicating Authority cannot recall or review the orders as per Insolvency & Bankruptcy Code. The Applicant herein only wanted a clarification about conclusion of the debt of the Applicant as to whether there is any finding by this Adjudicating Authority on the existence of debt or not? In IBC matters, if the application is filed under Section 7 or 9, this Adjudicating Authority does not conclude a finding on the quantum of the debt due and payable but only arrive at the prima facie view that the amount claimed before 24.03.2020 to be less than about Rs.10 Lakhs and after notification dated 24.03.2020, any debt of Rs.1 Crore and above is admitted before this Adjudicating Authority, if other ingredients of Section 7 and 9 are met with. Since we do not review our own order, this IA/1035/IB/2020 stands **dismissed**.

However, the order of dismissal of the application under Section 7 or 9 of IBC, does not prevent the Applicant from seeking any other relief under other laws.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-

(R. SUCHARITHA)
MEMBER (JUDICIAL)

vs