

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH at AHMEDABAD
COURT 1**

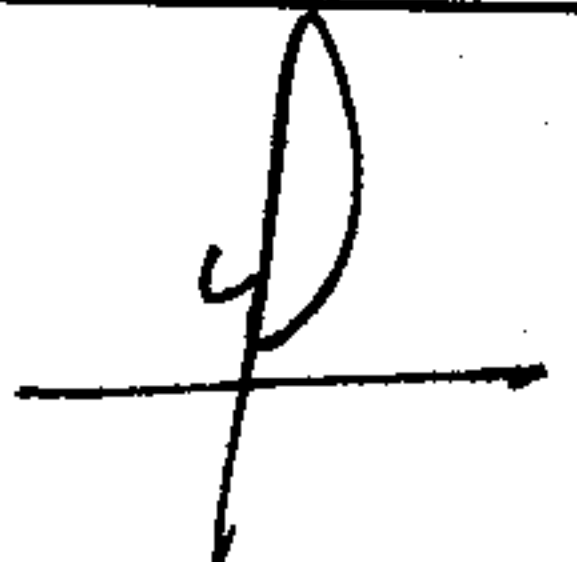
TP 94 of 2019 [CP(IB) 75 of 2019]

**Coram: Hon'ble Ms. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 28.02.2020**

Name of the Company: Vivek Traders
V/s
BRK Foods Pvt Ltd

Section: Section 9 of Insolvency & Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Kunal Goyal for Ravi Raj Singh	Advocate	Petitioner	
2.				

ORDER

The Petitioner is represented through its learned Counsel.


- The Operational Creditor, viz., M/s. Vivek Traders, has moved the present IB Petition (i.e. TP 94 oCP (IB) No.75 of 2019) before this Bench (under Section 9 of the Insolvency and Bankruptcy Code, 2016, read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016) for the purpose of initiation of Corporate Insolvency Resolution Process in respect of M/s. BRK Foods Pvt. Ltd (Corporate Debtor).

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2. As per record, the respondent-corporate debtor has filed its reply in the matter.
3. Subsequent thereto, the counsel for the petitioner filed an application/purshis and has sought withdrawal of the present IB Petition mainly on such ground that it unintentionally failed to furnish a proof of service of Demand Notice. Since such being a mandatory requirement to file a petition under Section 9 of the I & B Code, the petitioner now seeks leave for withdrawal of the present IB petition with liberty to file afresh one after complying with procedural formalities of issuing a fresh Demand Notice, under Section 8 of the I & B Code, and serving to the Corporate Debtor. Hence, the present application for withdrawal.
4. Having gone through the above stated contents of the present withdrawal application and having heard the learned petitioner counsel, we are of the view that the petitioner did not furnish sufficient proof of service of Demand Notice to the Corporate Debtor while filing the present IB Petition, which is mandatory requirement under Section 8 of the I & B Code and pre-requisite for moving an IB Petition under Section 9 of the I & B Code.
5. As the petitioner now wish to cure such procedural defect and seek liberty to file afresh petition after completing the procedural formalities, hence, such request seems proper and bonafide.
6. Therefore, the petitioner is allowed to withdraw the present IB Petition (i.e. TP 94 of 2019 [CP (IB) No. 75 of 2019]).
7. Consequently, the present IB Petition is dismissed as withdrawn, but with such observation that our this order shall

not operate as *Res Judicata* between the parties. The petitioner is at liberty to file fresh petition in accordance with law, before an appropriate Forum.



(Prasanta Kumar Mohanty)
Member (Technical)



(Harihar Prakash Chaturvedi)
Member (Judicial)

SR