

**NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**SPECIAL BENCH**

**RA. NO. 89/PB/2022**

**IN**

**Company Petition No. (IB)-77(ALD)/2017**

**IN THE MATTER OF:**

**IDBI BANK LIMITED**

**... Applicant/Financial Creditor**

**Versus**

**JAYPEE INFRATECH LIMITED**

**... Respondent/Corporate Debtor**

**AND IN THE MATTER OF R.A. No. 89/PB/2022**

(Under Rule 11 of NCLT Rules read with SECTION: 60(5) of IBC, 2016)

**Deshwal Contractors**

Through Proprietor: -  
Sh. Bijender Deshwal  
2<sup>nd</sup> Floor, Aditya Bhawan,  
Sector-58, BLB, Jharsaintly,  
Faridabad, Haryana

**... Applicant**

**Versus**

**Jaypee Infratech Limited**

Through its: Interim Resolution  
Professional-Mr. Anuj Jain  
BSSR & Co. 8<sup>th</sup> Floor,  
Building No. – 10C  
DLF Cyber City, Gurugram,  
Haryana – 122002

**Also at:**

Sector – 128, Noida – 201304  
District. GB Nagar (UP)

**... Respondent**

**Order Delivered on : 07.03.2023**

**CORAM:**

**JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT**

**SHRI. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)**

**PRESENTS:**

**For the Applicant** : Adv. Ekta Choudhary

## ORDER

This IA has been preferred by M/s. Deshwal Contractors, through Proprietor, Sh. Bijender Deshwal, seeking the following reliefs:

- “a) Allow the present application and restore I.A. No. 3033/2022 in 77/ALB/2017 to its original number and hear the application on merits. And/or;*
- b) Any other or further orders that this Hon’ble Tribunal may find fit in the facts and circumstances of the case.”*

2. It is stated by the Applicant that it had filed one I.A. No. 3033/2022, which was dismissed in default on 16.11.2022, due to non-appearance of the parties.

3. The following is averred by the Applicant for justifying its non-appearance on 16.11.2022:

*“5. That it is herein submitted that the counsel has been regularly following up with the instant matter and has remained present on the dates. That the IAs including applicant’s applications was not being taken up due to pendency of the arguments in the main matter. She was also present on 15.11.2022. However, the said I.A was not called out for hearing.*

*6. That on 16.11.2022, she was in another court and the said IA was taken up. She had requested her colleague to watch over the matter, in the event the I.A. is called out for hearing. However, when the IA was called out on account of inadvertence here colleague could not appear. But after which she immediately informed the counsel that the I.A. has been dismissed. By the time the counsel reached the court a different bench was presiding over the matters. Hence, the matter could not be mentioned.”*

4. We have heard the Ld. Counsel for the Applicant and perused the averments made in the application. That the present matter i.e., **Company Petition No. (IB)-77(ALD)/2017** is listed on the directions of the Hon'ble Supreme Court passed in the Judgement dated 24.03.2021 in the matter of **Jaypee Kensington Boulevard Apartments Welfare Association & Ors. vs. NBCC (India) Ltd. & Ors. in Civil Appeal No. 3395 of 2020**, and a Special Bench has been hearing this matter on day-to-day basis.

5. The reason stated by the Applicant for non-appearance clearly reflects the casual approach on behalf of the Applicant towards the present matter. Accordingly, we are not inclined to restore I.A. No. 3033/2022, which was dismissed in default.

**6. The RA.89/2022 is accordingly dismissed *in limine*.**

**Sd/-**

**(RAMALINGAM SUDHAKAR)  
PRESIDENT**

**Sd/-**

**(L. N. GUPTA)  
MEMBER (TECHNICAL)**