

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 341 of 2022**

**IN THE MATTER OF:**

**Sparta Global Projects Pvt. Ltd.**

**...Appellant**

**Versus**

**KUGD Services Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant:** Ms. Swati Bhardwaj, Mr. Rajiv Virmani, Mr. Arjun Agarwal, Mr. Abhinav Agarwal, Mr. Atul Malhotra, Advocates.

**For Respondent:**

**ORDER**  
**(Virtual Mode)**

**21.07.2022:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the Order dated 21<sup>st</sup> February, 2022. By which Order, the Application filed by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC in short) has been rejected on the ground that Appellant failed to serve Demand Notice under Section 8 of the Code as well as the Notices issued by the Adjudicating Authority.

3. In the Application, Learned Counsel for the Appellant submits that Appellant has served the Notice by email to the Director of the Corporate Debtor and further the observations of the Adjudicating Authority that Applicant has not placed on record the Master Data of the Corporate Debtor is not correct since

in the Application itself the Master Data of the Corporate Debtor was filed. Learned Counsel for the Appellant submits that Company Master Data was already annexed with the Section 9 Application as Annexure 19 which has also been placed along with the Additional Document before us.

4. In this Appeal, Notices were issued to the Respondent on 1<sup>st</sup> April, 2022. Again on 11<sup>th</sup> May, 2022, this Tribunal passed following order;

**“11.05.2022:**

*Affidavit of service has been filed.*

*Ld. Counsel for the Appellant submits that the postal materials have been returned unserved although service effected on email.*

*Let the Ld. Counsel for the Appellant take steps for service by publication in two Newspapers having circulation in local areas one in English and second in Hindi within two weeks.*

*List this Appeal on 06th July, 2022.”*

5. In pursuance of the Order dated 11.05.2022, an Affidavit of Service has been filed on 23<sup>rd</sup> May, 2022 where the Appellant has brought on record two publications in the Newspapers “The Hindu” dated 18<sup>th</sup> May, 2022 and in the “Rashtriya Sahara” dated 18<sup>th</sup> May, 2022 publishing the notice.

6. After having heard Learned Counsel for the Appellant, we are of the view that observations made by the Adjudicating Authority that Master Data of the Corporate Debtor has not been placed to establish the fact of sending the Notices

by email ID is incorrect. The email ID on which Notice was issued was very much part of the Master Data and the service was effected on the said email ID.

7. Furthermore, Learned Counsel for the Appellant submits that neither before the Adjudicating Authority nor before this Tribunal, the Respondent has appeared. Notices in the two Newspaper having already been published under the Orders of this Court, the Respondent did not appear. We are thus of the view that ground for rejection of the Application under Section 9 of IBC was erroneous. We set aside the Order dated 21<sup>st</sup> February, 2022 and direct the Adjudicating Authority to pass an Order of admission of Section 9 Application under IBC within a period of one month from the date when the Copy of the Order is produced and to take further steps in accordance with the law.

**[Justice Ashok Bhushan]  
Chairperson**

**[Justice M. Satyanarayana Murthy]  
Member (Judicial)**

**[Mr. Barun Mitra]  
Member (Technical)**

Basant/nn