

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

2. IA 375/2024 in C.P. (IB)/442(MB)2023

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2024**

**NAME OF THE PARTIES:- Mr. Pawan Madhav Shetty (IRP Of
Waterfront Buildcon LLP)
IN THE MATTER OF
Peridot Buildcon Private Limited
V/s
Waterfront Buildcon LLP**

**Section: Rule 11 of NCLT, 2016 U/s 7 of Insolvency and Bankruptcy
Code, 2016**

ORDER

IA 375 of 2024:- PCS, P S Thakre appeared for the Applicant and Counsel, Amit Tungare appeared for the Respondent. This Application is filed by the Resolution Professional of Corporate Debtor i.e. Waterfront Buildcon LLP seeking revocation/cancellation of order dated 02.01.2024 passed by this bench in CP(IB) 442 of 2023 u/s 7 of the Code, 2016. It has been pointed out that Petitioner i.e. Peridot Buildcon Private Limited had filed Petition u/s 7 of the Code, 2016 seeking initiation of CIRP proceedings against the Corporate Debtor namely Waterfront Buildcon LLP for nonpayment of outstanding debt of Rs. 4,80,41,201/-. The said Petition u/s 7 was admitted by this bench vide order dated 02.01.2024, which has been annexed with the present Application as Annexure 3 and Mr. Shaikh Nafis Anjun was appointed as IRP. It has further been pointed out that the Corporate Debtor i.e. Waterfront Buildcon LLP had already been admitted under CIRP in an

Application u/s 9 of the IB Code, 2016 filed by Ultratech Cement Limited by NCLT Bench – VI, Mumbai vide order dated 13.12.2023 passed in CP(IB) 3591(MB) 2018.

From the aforementioned facts, it evident that the order dated 02.01.2024 was passed by this bench in CP(IB) 442 (MB)2023 when the Corporate Debtor was already in CIRP by virtue of order dated 13.12.2023 passed by NCLT Bench – VI, Mumbai in CP(IB) 3591(MB) 2018. However, when the order was pronounced by this Bench-II on 02.01.2024, the factum passing of the order dated 13.12.2023 by Bench – VI, Mumbai was not brought to our notice. It is well settled that against the same Corporate Debtor, two CIRP proceedings cannot be simultaneously maintained. Under these circumstances, in our considered view, the order dated 02.01.2024 could not have been passed if the factum of passing of the order dated 13.12.2023 had been brought to the knowledge of this bench. In any case, since the CIRP had already been initiated against the same Corporate Debtor by virtue of the order 13.12.2023 passed by Bench-VI, the order dated 02.01.2024 cannot be sustained and is liable to be recalled. As a result of discussion, the order dated 02.01.2024 passed by this bench is hereby recalled, hence, **IA 375 of 2024** is **allowed** and **disposed of** and **CP(IB) 442 (MB)2023** is **dismissed** having been rendered **infructuous**. File be consigned to records. The Petitioner of CP(IB) 442(MB)2023 however, would be at liberty to file its claim with the RP appointed vide order dated 13.12.2023 by Bench – VI.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)
ANKIT

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)