

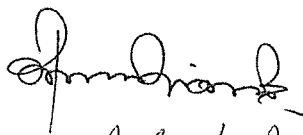

NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH  
CHENNAI

14

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 01/02/2019

PRESENT: SHRI B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)  
SHRI S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

APPLICATION NUMBER :  
PETITION NUMBER : CP/1471/IB/2018  
NAME OF THE PETITIONER(S) : SAI ENTERPRISES PVT LTD  
NAME OF THE RESPONDENT(S) : FLORIND UPPERS PVT LTD  
UNDER SECTION : 9 RULE 6

S.No.	Name (in Capital)	Represented by	Signature
1.	R. PALANIANDAMN	Counsel for Petitioner	
2.	A. ditya, Mukerjee	Counsel for Respondent	

ORDER

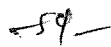
It is a Company Petition filed u/s 9 of the Insolvency & Bankruptcy Code, 2016 (“the Code”) by the Petitioner on the ground that the Corporate Debtor defaulted in making payment against the invoices raised way back in between 05.09.2013 and 28.12.2013, therefore sought for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.

On perusal of this case, this Bench has noticed that the invoices raised between 05.09.2013 and 28.12.2013 beyond three years from the date of filing because this petition was filed only on 22.11.2018, therefore though this claim is time barred by the time the petition filed before this Bench, this Operational Creditor has filed this case by showing a balance confirmation dated 03.09.2018, which was issued far after lapse of three years from the date invoices raised against the Corporate Debtor, this Bench hereby holds that the balance confirmation cannot be construed as fresh promise made by the Corporate Debtor against time barred debt as contemplated u/s 25 of the Contract Act.

As we all know that balance confirmation will become acknowledgement in writing falling under Section 18 of The Limitation Act, 1963 provided such confirmation is given within the prescribed period as prescribed under law, but not under Section 25 of the Contract Act because under this section there shall be an agreement in writing and signed by the person to be charged or by his agent, as the case may be, against the time bared debt in compliance of stamp duty and registration if applicable.

Therefore, since the balance confirmation being given by the Corporate Debtor after lapse<sup>of</sup> three years from the date of invoices, we hereby **dismissed this claim as time barred debt.**

  
(S.VIJAYARAGHAVAN)  
Member(Technical)

  
(B.S.V.PRAKASH KUMAR)  
Member(Judicial)