

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 04 of 2018

IN THE MATTER OF:

ANTZ Age Technologies Pvt. Ltd.

...Appellant

Vs.

Durha Infracon Pvt. Ltd.

...Respondent

Present: For Appellant: - Shri Ashok Kumar Juneja, Advocate

O R D E R

23.01.2018- The appellant (Operational Creditor) filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I & B Code') for initiation of Corporate Insolvency Resolution Process against respondent – Durha Infracon Private Ltd. (Corporate Debtor). Subsequently, time was granted to the appellant to correct the defects. However, the defects were not removed to the extent of service of notice, which according to the appellant, returned 'unclaimed' and the application was dismissed by the impugned order dated 17th October, 2017. The said order is under challenge in the present appeal.

Having heard learned counsel for the appellant and on bare perusal of the record, we find that the appellant (Operational Creditor) subsequently moved before the Adjudicating Authority (National Company Law Tribunal), Bench-III, New Delhi for withdrawing the application preferred under Section 9 and such prayer was allowed by another order dated

28th November, 2017 and the application was dismissed as withdrawn, which is not under challenge. The order reads as follows:

“At the request of the Learned Counsel for the petitioner, the application is allowed to be withdrawn and the application is ordered to be dismissed as withdrawn. Let the files be consigned to records after completing due formalities.”

In view of the fact that the appellant has already withdrawn the application filed under Section 9 of the I & B Code, the question of interference in the impugned order dated 17th October, 2017 does not arise. The appeal is accordingly dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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