

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Ins) No. 253 of 2017**

**IN THE MATTER OF:**

**IVRCL Limited**

**.. Appellant**

**Versus**

**Sanghvi Movers Limited**

**.. Respondent**

**Present:**

**For Appellant:                    Shri Sumesh Dhawan, Ms. Vatsala Kak and Ms. Charu Sharma Advocates.**

**For Respondent:                Shri Nitin S. Tambwekar , B.S.SAI, Advocate**

**O R D E R**

**21.11.2017**        This appeal has been preferred by M/s IVRCL Limited (Corporate Debtor) against the order dated 27<sup>th</sup> September, 2017 passed by Adjudicating Authority (National Company Law Tribunal) Hyderabad Bench, Hyderabad in C.P. No.117/9/HDB/2017 whereby and whereunder the Adjudicating Authority noticed that without comply with the provisions of Section 8 of the Insolvency & Bankruptcy Code, 2016(“**I&B Code**”), the petition under Section 9 of the I&B Code has been filed by Respondent – M/s Sanghvi Movers Limited (‘Operational Creditor’) thereby allowed time to the Respondent (‘Operational Creditor’) to issue a fresh demand notice treating the application as defective.

When the matter was taken up, Mr. Nitin S. Tambwekar, learned Counsel for the Respondent ('Operational Creditor') submits that he has been instructed by the Operational Creditor to withdraw the Application under Section 9 of the I&B Code as has been filed before the Adjudicating Authority to enable the 'Operational Creditor' to issue a fresh notice on the Corporate Debtor under sub-Section (1) of Section 8 and then in case of failure of payment of debt amount to file fresh an Application under Section 9 of the I & B Code. It is also informed that such an application has already been filed on 8<sup>th</sup> November, 2017.

In the facts and circumstances of the case, without going into the merit of the case, we allow the prayer as made on behalf of the Respondent ("Operational Creditor"); dismiss the application filed under Section 9 of the I&B Code before the Adjudicating Authority as withdraws with a liberty to the 'Operational Creditor' as prayed for, noted above.

In view of the order aforesaid, the Adjudicating Authority will close C.P. No. 117/9/HDB/2017 as dismissed as withdrawn with liberty aforesaid. However, there shall be no cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

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