

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal(AT)(Insolvency) No. 141 of 2018

IN THE MATTER OF:

Industrial Services

...Appellant

Vs

Burn Standard Company & Anr.

....Respondents

With

Company Appeal(AT)(Insolvency) No. 142 of 2018

IN THE MATTER OF:

Industrial Services

...Appellant

Vs

Burn Standard Company & Anr.

....Respondents

Present:

For Appellant: **Mr. S.Banerjee, Mr. P Garai, Mr. J. Acharya and
Ms. Anwesha Saha, Advocates.**

For Respondents: **Mr. Jayant Mehta, Mr. Indranil Ghosh, Mr. Kunal
Singh and Mr. Palzer Moktan, Advocates**

ORDER

25.05.2018 The Respondent (Burn Standard Company Ltd.) ('Corporate Applicant') filed an application under Section 10 of Insolvency & Bankruptcy Code, 2016 (hereinafter 'I&B Code') for its insolvency which was admitted. Pursuant to the advertisement in the newspaper, the Appellant claimed to be the 'Operational Creditor' having rendered services to the 'Corporate Debtor'. The claim was not accepted and 'Resolution Plan' was submitted by the 'Corporate Debtor' itself wherein it suggested closure of the Company ('Corporate Debtor').

The question arises for consideration in this appeal is whether ‘Corporate Debtor (‘Corporate Applicant’) was eligible to file Resolution Plan in the month of February, 2018, though it was ineligible under Section 29A of I & B Code, which came into force w.e.f. 23.11.2017 (when ordinance was issued which was followed by Act 8 of 2018).

The other question arises for consideration is whether the Resolution applicant can ask for closure of the ‘Corporate Debtor’ which is not provided under I & B Code, nor prescribed under Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016.

Heard Mr. S. Banerjee, learned Counsel for the Appellant. The rejoinder Affidavit is being filed by the Appellant in the Court which is accepted. Hearing concluded.

Place the case for ‘Admission (After Notice)’ on the top of the list on **30th May, 2018** for hearing of the learned Counsel for the Respondents.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

Akc/gc