

**A change in address of the registered office of the Corporate Debtor cannot be a ruse for failure of the concerned party to send/issue a Demand Notice as per Section 8 of the Code.**

<b>CASE TITLE</b>	Mr. Shailendra Sharma v. Ercon Composites <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Insolvency) No. 159 of 2020
<b>DATE OF ORDER</b>	13.01.2020
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	<ul style="list-style-type: none"><li>• <i>Transparent Technologies P. Ltd. V. Multi Trade</i></li><li>• <i>MesmetroStroy (FZE) Vs. BASF India Ltd. and Ors</i></li><li>• <i>Macquaire V. Shilpi Cable Technologies Ltd.</i></li></ul>
<b>SECTION/REGULATION REFERRED</b>	Section 8, 9 of IBC, and Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

**Brief of the case:**

An appeal was filed against the order of admission passed by the Adjudicating Authority (NCLT, Mumbai) on the ground that no Demand Notice was served on the Corporate Debtor as per Section 8 of the Code and that there was existence of a dispute between the parties.

**Decision:**

Hon'ble NCLAT allowed the appeal and held that,

*“In view of the fact that in the instant case Section 8 notice under ‘I&B’ Code was not served upon the Second Respondent / Corporate Debtor and admittedly the same got returned as mentioned Supra, this Tribunal comes to a consequent conclusion that the impugned order dated 01.01.2020 passed by the Adjudicating Authority in CP (IB) No.749/MB/C-IV/2017 in admitting the petition is not legally tenable and the same is accordingly set aside by this Tribunal to secure the ends of justice...this Tribunal grants liberty to the First Respondent/Operational Creditor to issue fresh notice to the Second Respondent/Corporate Debtor as per Section 8(1) of the ‘I&B’ Code and on receipt of service of such notice if there is ‘Debt and Default’, to file a fresh application u/s 9 of the Code before the ‘Adjudicating Authority’ and to seek redressal of grievances in accordance with law.”*



**QR CODE FOR FULL ORDER/JUDGEMENT:**

<sup>1</sup><https://nclat.nic.in/Useradmin/upload/3962274575ffed027388db.pdf>