

Fresh application to initiate CIRP is not maintainable, if similar application was filed by the same Operational Creditor for the same cause of action which was permitted to be withdrawn without liberty to file fresh application- NCLAT

CASE TITLE	Suri Rajendra Rolling Mills Vs. Bengani Udyog Private Limited ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 334 of 2020
DATE OF ORDER	11.02.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	-
SECTION/REGULATION REFERRED	Section 9 of IBC, 2016

Brief of the case:

The present Appeal arose out of impugned order of NCLT, wherein it was held that the application filed under Section 9 was not maintainable on the ground that similar application for same cause of action was filed by the same Operational Creditor and was permitted to withdraw a similar application filed without liberty to file fresh application.

Decision:

Hon'ble NCLAT dismissed the appeal with following observations:

"7. We have gone through the earlier Application under Section 9 which was filed and the new Application which was filed under Section 9 of I&B, Code. Both of the Applications referred to the same amount and similar facts are averred..."

10. Even otherwise, when present Application under Section 9 is filed, the earlier Reply Notice which was sent by the Corporate Debtor discloses Pre-existing dispute. The Section 9 Application claims debt relying on Ledger Account of Appellant itself. This read with the Notices on record shows various disputes pre-existing between parties. That being so, even if one is to look into merits in the alternative, the Application under Section 9 does not show that it deserves to be admitted."



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://nclat.nic.in/Useradmin/upload/1878525425602519062fe11.pdf>