

**The provision of the Code cannot be invoked for recovery of outstanding amount as well as it cannot be misused to drop the curtain on a healthy organization**

<b>CASE TITLE</b>	Aparna Enterprise Ltd Vs. SJR Prime Corporation Pvt Ltd <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Insolvency) No. 632 of 2020
<b>DATE OF ORDER</b>	15.02.2021
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited
<b>SECTION/REGULATION REFERRED</b>	Section 61 and Section 9 of IBC, 2016

**Brief of the case:**

The present Appeal was filed by Aparna Enterprises Limited under Section 61 of the Insolvency and Bankruptcy Code, 2016 against the Impugned order by the NCLT, Bengaluru Bench wherein the Adjudicating Authority decided the case on the reason that the Company Petition was filed with an intention to recover the disputed outstanding amount in question & Arbitration Application was also pending.

**Decision:**

Hon'ble NCLAT dismissed the appeal with following observations:

*"14...The debt became "due" from July 2018, the question is whether it became "payable" by the Corporate Debtor under the law, the answer is in "negative" because there were quality & other issues raised by the Corporate Debtor. The Operational Creditor has issued a Demand Notice dated 18.11.2019 received on 06.12.2019 by the Corporate Debtor and within the stipulated period, the Corporate Debtor vide its letter dated 09.12.2019 has replied and proved beyond doubt that there is an existence of dispute particular the cracks in the projects sites, reduced quality of goods supplied, short supply of concrete multiple snags in windows and doors etc& also raising issue to initiate arbitration proceedings for excess sum of over Rs.9.51 Crore paid to the Appellant etc. This meets the criteria of genuine dispute raised within stipulated period. Accordingly, under Section 9(5)(ii)(d) Application needs to be rejected. The provision of the Code cannot be invoked for recovery of outstanding amount as well as it cannot be misused to drop the curtain on a healthy organization. The Objective of the Code is to consolidate and amend the laws relating to reorganization and Insolvency Resolution of Corporate Persons. Using the platform of the Code, threatening the vendor to release even disputed amount is not fair and equitable."*



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

<sup>1</sup><https://nclat.nic.in/Useradmin/upload/529496215602a23358bc28.pdf>