

INSTITUTE OF INSOLVENCY PROFESSIONALS

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Learning Curve-505

February 26, 2021

Adjudicating Authority should not have rejected the Application and if it was of the opinion that there is a defect, the Appellant should have been allowed to cure the same.

CASE TITLE	Mateshwari Minerals Vs. Jet Granito Pvt Ltd ¹
CASE CITATION	Company Appeal (AT) (Ins) No.776 of 2020
DATE OF ORDER	24.02.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	Doshi Brothers vs. State of Mah; Bhagwati Vanaspati Traders Versus Senior Superintendent of Post Offices, Meerut; Neeta Saha, Member of Suspended Board of Palm Developers Pvt. Ltd. Vs Mr. Ram Niwas Gupta (Proprietor of Ram Niwas Gupta & sons) & Anr.
SECTION/REGULATION REFERRED	Section 9 of IBC, 2016

Brief of the case:

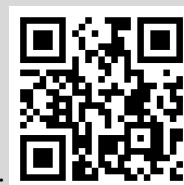
An Appeal was filed against the impugned order passed by the National Company Law Tribunal, Ahmedabad Bench wherein the Adjudicating Authority dismissed the application filed by the appellant under Section 9 of Insolvency and Bankruptcy Code, 2016 on the sole technical ground that the application filed was in the name of M/s. Mateshwari Minerals, a Proprietorship and as it was filed in the name of M/s. Mateshwari Minerals, the Adjudicating Authority held that it was not a legal entity and thus held that the Application was not maintainable and bad in law.

Decision:

Hon'ble NCLAT, allowed the appeal with following observations:

“12. ...The Impugned Order is quashed and set aside. The matter is remitted back to the Adjudicating Authority. The Adjudicating Authority will give opportunity to the Appellant to correct the description of the name of the Operational Creditor in the Format (Annexure - B – Page 32). Then the Adjudicating Authority should decide the Application hearing both sides, whether or not the same deserves to be admitted.”

QR CODE FOR FULL ORDER/JUDGEMENT:



¹<https://nclat.nic.in/Useradmin/upload/13531816936037588d33a82.pdf>