

IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



VENUS SAGAR LTD. VS. SASF COMPANY APPEAL (AT) (INSOLVENCY) NO. 1517 OF 2019

Brief Facts

Financial Creditor 'SASF' filed an application u/s 7 of the IBC,2016 before NCLT, Ahmedabad Bench to initiate corporate insolvency resolution process against Venus Sagar Limited. The matter was taken up on 18th November 2019 and in the absence of the counsel for the Financial Creditor, the application was dismissed for non-prosecution. However the matter was mentioned later on by the counsel for the Financial Creditor, who apologised for not being present at the time of hearing.

Decision

In the above matter NCLAT held that if an earlier application u/s 7 of the Code has been dismissed on ground of non-prosecution, it will always be open for the respondent to file fresh application. However, in order to maintain the rule of natural justice; in the said matter the right action was taken by the Hon'ble Member, who before signing the order, ordered to list the matter and inform the Appellant as otherwise it would have incurred more litigation. NCLAT also held that both the parties have liberty to settle the matter before admission and the order passed by the Adjudicating Authority or Appellate Tribunal will not come in the way of the Appellant – Corporate Debtor or the Respondent – Financial Creditor for determination of matter on merit.

Link to the Order

<https://ibbi.gov.in/uploads/order/3a289c793608606d8168e0ea35835ccd.pdf>



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