

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**COURT – IV**

**ITEM No.414**

**IA/1656/ND/2023 IN IB/284/(PB)/2021**

**IN THE MATTER OF:**

Vivek Khanna & Ors.	...	Applicant
Versus		
Spaze Towers Pvt Ltd.	...	Respondent

**Order under Section 7 of IBC, 2016.**

**Order delivered on 07.08.2023**

**Coram:**

**Mr. ASHOK KUMAR BHARDWAJ,  
HON'BLE MEMBER (JUDICIAL)**

**DR. BINOD KUMAR SINHA,  
HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant	: Mr. Simrat Singh Pasay, Adv.
For the Respondent	: Mr. Sumesh Dhawan, Mr. Vatsala Kak, Mr. Shaurya Shyam & Mr. Raghav Dembla, Advs.
For Applicant/Intervener	: Ms. Apoorva Thakral, Adv.

**ORDER**

**IA/1656/ND/2023**

The prayers made in the present application reads thus:

*“In the light of the aforesaid facts and circumstances it is most humbly prayed that this Hon'ble Court may be pleased to:*

- i. Allow the present application and permit the applicant to intervene/ be impleaded in the captioned matter as a financial creditor.*
- ii. Pass any such order(s) that thus Hon'ble Tribunal may deem fit in the interest of justice.”*

Indubitably, the proceedings under Section 7, 9 & 10 are benevolent and beneficial proceedings provided to take steps to bring the Corporate Debtor back to its feet. The proceedings cannot be termed as recovery proceedings or the proceedings for redressal of grievances of the Petitioners. In the present case, the plea espoused on behalf of the Applicant is that since certain amount is due to be recovered by him from the Corporate Debtor, he also needs to be heard while disposing the petition. It is settled position of law that before admission the proceedings under Section 7 & 9 are between the applicant creditors and the corporate

debtor. Even if, there are other claimants who the Corporate Debtor has defaulted to make payment over to Rs.1.00 crore (Rupees One Crore) either they can join the petition at the time of filing or they may file fresh petition. The claimants whose dues are to be recovered have remedy under Section 15A read with Section 18 of IBC to stake their claims before IRP. In view of the aforementioned legal position, the caption petition is not maintainable. It goes without saying in the event of initiation of CIRP against the Corporate Debtor, the RP would have to publish a notice in terms of Section 13 read with Section 15 of IBC, 2016 and would also inform the creditors individually regarding their claims in terms of the provisions of Regulations 6A of IBBI (CIRP) Regulations, 2016 including the petitioner herein.

In such a situation, the Petitioner herein would be entitled to make his claim before the IRP. Accordingly, the present application i.e. IA/1656/ND/2023 is **disposed of**.

The main petition i.e. IB/284/(PB)/2021 being partly heard before the Regular Bench, the same be placed before the **Regular Bench** for hearing on **01.09.2023**.

**Sd/-**

**DR. BINOD KUMAR SINHA,  
MEMBER (TECHNICAL)**

**Sd/-**

**ASHOK KUMAR BHARDWAJ,  
MEMBER (JUDICIAL)**