

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**COURT-V**

**Item No.-107**  
IB-826/ND/2020  
New Petition

**IN THE MATTER OF:**

COGENT ENGINEERS PRIVATE LIMITED

**Vs.**

KARMIC ENERGY PRIVATE LIMITED

....Applicant

.....Respondent

**SECTION**

U/s 9IBC Code 2016

**Order delivered on 24.09.2020**

**CORAM:**

**SHRI ABNI RANJAN KUMAR SINHA**  
**HON'BLE MEMBER (JUDICIAL)**

**SHRI K.K. VOHRA,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant : Mr. Kairav for RP

For the Respondent : Mr. Gaurav

Per se Mr . Abni Ranjan Kumar Sinha, Member (Judicial)

**ORDER**

**AS PER MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)**

**(Dictated in Open Court)**

The present application has been filed on behalf of petitioner, who is the RP in CIRP proceeding initiated in CP (IB) No. 3861/NCLT/MB/2018 passed by our co-ordinate Bench of Mumbai vide order dated 30.08.2019 and in pursuant of that, the present application has been filed for the amount which was due and payable to the petitioner and said amount has been referred in page 35-37 of the application. He fairly submitted that he has mentioned the date from which the liability is due on 26.02.2016 in part-IV of the application. He further submitted that the amount is due that has been accepted by the Corporate Debtor, when the notice was issued upon them but the contention of the Corporate Debtor is that the debt is barred by limitation so, they are not liable to pay that amount and on this ground, he made a prayer to initiate the CIRP proceeding against the Corporate Debtor.



Mr. Gaurav has appeared on behalf of respondent/Corporate Debtor and submitted that the said amount is barred by limitation and apart from that, he has raised the dispute regarding the existence of that amount.

Considering the submissions made on behalf of parties, since it is mentioned in part-IV of the application at page 17 that the default is from 26.02.2016, therefore, we would like to consider at first whether the present application is filed by the applicant is within time or not ?

When we have gone through the petition, we noticed that the present application has been filed on 21.03.2020, whereas as per Article 137 of the Limitation Act, the application required to file by the applicant within three years, when the right accrue. Since, in this case, date of default is 26.02.2016, the petitioner was required to file an application on or before 25.02.2019 but the same is filed on 21.03.2020, therefore, we are of the considered view that the present application is hopelessly barred by limitation, so, under such circumstances, we have no option but to dismiss the application at this stage itself. **Accordingly, we hereby dismiss the application on the point of limitation.**

However, the petitioner is at liberty to recover the said amount as per the law by approaching before the other competent authority in accordance with the provisions of law.



**(K.K. VOHRA)**  
**MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)**  
**MEMBER (J)**