

**NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH  
COURT – IV**

33. C.P. (IB)/415(MB)2021

CORAM:

SHRI PRABHAT KUMAR  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **17.05.2023**

Name of the Parties: Mr. Ashok Kumar Gakhar and Others  
VS  
Rolta Defence Technology Systems Private Limited  
SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

**ORDER**

**The Court is convened through Video Conference.**

1. Mr. S. Das, Ld. Counsel for the Petitioner present. Mr. Mufaddal Paperwala, Ld. Counsel for the Respondent present.
2. Ld. Counsel for the Petitioner submits that this Petition is filed for recovery of TDS withheld from his remuneration and not deposited by the Corporate Debtor.
3. This Bench feels that the issue of credit against the tax not deposited by the Corporate Debtor is squarely covered by numerous decisions of High Court and Income Tax Appellate Tribunal wherein the Income Tax department was directed to allow credits to the deducted and not to enforce recovery of such amounts as represented by the tax, not having been deposited by the deductor, from the deductee.
4. We feel that this Petition is not maintainable as it is Income Tax department whose claim lies against the Corporate Debtor not of the Applicant.
5. In view of above observations, C.P. (IB)/415(MB)2021 is dismissed.

**Sd/-**

**PRABHAT KUMAR**  
**Member (Technical)**

/NP/

**Sd/-**

**KISHORE VEMULAPALLI**  
**Member (Judicial)**