

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 244 of 2020

In the matter of:

Vinayak Laser Tech Pvt Ltd

Appellant

Vs

Instapower Ltd

Respondent.

Mr. Anup Kumar, Advocate for the appellant.

ORDER

10.02.2020: Heard learned Counsel for the Appellant.

2. It is the submission of learned Counsel for the Appellant that the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench No.4 in the Impugned Order dated 14.01.2020, at paragraph 11 had observed the following, and the same is incorrect one, which has resulted in an erroneous impugned order being passed:-

“11. The applicant has not filed any application for condonation of delay under Section 5 of the Limitation Act while filing application under Section 9 of the IBC,2016. Admittedly invoice for claim is of 10.08.2015 and the application is filed on 21.12.2018.”

3. In this connection advancing his arguments, the learned Counsel for the Appellant points out that the part payment of Rs. 1,25,000/- was made by the Respondent Bar Corporate Debtor on 14.10.2016, and if the part payment date is taken in account, a fresh period of Limitation will start from that date which was not appreciated by the Tribunal in proper and real perspective. Also that the Learned Counsel for the Appellant has referred to annexure-5(page 42 of the paper book) wherein the last entry of 14.10.2016 runs as under:-

<i>“Date</i>	<i>Particular</i>	<i>Voch Type</i>	<i>Voc No.</i>	<i>Debit</i>	<i>Credit</i>
<i>14.10.2016</i>	<i>Dr PNB 55105</i>	<i>Receipt</i>	<i>43</i>		<i>1,25,000.00”</i>

4. In view of the above, this Tribunal at this stage deems it fit and proper to issue notice to the Respondent/Corporate Debtor returnable on **2nd March, 2020.**

5. Let notice be issued to the Respondents by speed post. Requisites alongwith process fee, if not filed, be filed by 13.2.2020. If the appellant provides the email address of Respondents, let notice be also issued through email.

[Justice Venugopal M.]
Member (Judicial)

[V. P. Singh]
Member (Technical)

Bm/gc