

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Ins) No. 159 of 2020**

**IN THE MATTER OF:**

**Shailendra Sharma**

**....Appellant**

**Vs.**

**Ercon Composites & Ors.**

**....Respondents**

**Present:**

**For Appellant: Mr. Gurcharan Singh, Advocate**

**For Respondents:**

**O R D E R**

**27.01.2020:** The issue raised in this appeal is that there was a pre-existing dispute and demand notice under Section 8 (1) of the I&B Code was not served on the Appellant (Corporate Debtor). Reference has been made to the Impugned Order to buttress the point that the Operational Creditor has admitted that demand Notice has been returned unserved.

Let notice be issued on Respondents by Speed Post. Requisites along with process fee, if not filed, be filed by tomorrow. If the Appellant is able to ascertain the email address of Respondents, he may file the same and notice may be issued through email as well.

Post this appeal 'For Admission (After Notice)' on **14<sup>th</sup> February, 2020**.

Learned Counsel for the Appellant submits that as per his information Interim Resolution Professional has taken over and issued public announcement. However, 'Committee of Creditors' has not been constituted.

In the peculiar circumstances of the case, we direct that the Interim Resolution Professional shall not constitute 'Committee of Creditors' till the next date of hearing, if not yet constituted.

In the meantime, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors.

The persons who are working will perform their duties including the paid Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorisation of the 'Interim Resolution Professional'. The bank account(s) of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen, electricity bills etc.

[Justice Bansi Lal Bhat]  
Member (Judicial)

[V. P. Singh]  
Member (Technical)

[Shreesha Merla]  
Member (Technical)

*sa/gc*

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