

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

**Company Appeal (AT) (Insolvency) No. 47 of 2017**

**IN THE MATTER OF:**

**M/s. Speculum Plast Pvt. Ltd.**

**...Appellant**

**Versus**

**PTC Techno Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :**           **Mr. Kanti Mohan Rustogi, Advocate**

**For Respondent :**       **Mr. Apurv and Mr. Dhruv Gupta, Advocates**

**ORDER**

**11.12.2018**       Learned counsel for the parties submit that the appeals are covered by the order of this Appellate Tribunal dated 1<sup>st</sup> November, 2018 passed in ‘*Company Appeal (AT)(Insolvency) No. 488 of 2018 – Speculum Plast Pvt. Ltd. vs. PTC Techno Pvt. Ltd.*’, which reads as follows:

*“This appeal has been preferred by ‘M/s Speculum Plast Pvt. Ltd.’ against order dated 26<sup>th</sup> July, 2018 passed by Adjudicating Authority (National Company Law Tribunal), New Delhi Bench which reads as follows:*

**“ORDER**

*Ld. Counsel for the Operational Creditor has placed reliance on the decision of the Hon’ble NCLAT in the matter of Company Appeal No. (AT) (Insolvency) No. 122/2017 whereby it has been observed that the Limitation Act is not applicable to the Code and in any*

*event the cause of action accrues only on the date of notification of the Code.*

*Ld. Counsel submits that this petition having being filed in 2017 is therefore within the limitation. The present case along with other 3 other connected matter on the point are under adjudication before the Hon'ble Apex Court. Judicial propriety demands that the decision of the Hon'ble Apex Court be awaited as the matter is under consideration.*

*To come up on 28<sup>th</sup> August, 2018.”*

2. *Learned counsel appearing on behalf of the Appellant submits that in the appeal preferred by B.K Educational Services Pvt. Ltd. vs Parag Gupta and Associates, Civil Appeal No. 23988 of 2017 and analogous case, the Hon'ble Supreme Court by judgment dated 11<sup>th</sup> October, 2018 held that Limitation Act has in fact been applied from the inception of the Insolvency and Bankruptcy Code.*
3. *In the aforesaid background, instead of making any observation on the merit or claim and counter claim of the parties, we direct the Adjudicating Authority (National Company Law Tribunal) New Delhi Bench to consider the application under Section 9 of the I&B Code preferred by M/s Speculum Plast Pvt. Ltd. (Appellant) against M/s PTC Techno Pvt. Ltd. after hearing the parties on an early date.*

4. *Appeal stands disposed of with aforesaid observation and direction. No cost.*”

We have gone through the record and we find that this appeal is also cover by aforesaid order dated 1<sup>st</sup> November, 2018 passed in ‘*Speculum Plast Pvt. Ltd.*’ In the circumstances, we dispose of this appeal with same and similar observations as directed by us in ‘*Company Appeal (AT)(Insolvency) No. 488 of 2018 – Speculum Plast Pvt. Ltd. vs. PTC Techno Pvt. Ltd.*’. We make it clear that we have not decided the case on merit and the parties are at liberty to raise all the issues before the Adjudicating Authority.

The appeal stands disposed of with the aforesaid observations and directions. No cost.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/uk/