

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1100 of 2019**

**In the matter of:**

**Harrish Khurana**

**....Appellant**

**Vs.**

**One World Realtech Pvt. Ltd.**

**...Respondent**

**For Appellant: Mr. Ashish Middha & Mr. Purav Middha, Advocates.**

**For Respondent: Mr. Amandeep Singh, Advocate.**

**ORDER**  
**25.02.2020**

1. Heard learned Counsel for the Appellant.

Learned Counsel for the Appellant submits that the Respondent (Corporate Debtor) had taken services of the Appellant who is 'Practicing Company Secretary' for which various letters were issued, giving Authority to the Appellant to approach, concerned authorities and execute works on behalf of the Company. The documents pointed out are at Page No. 72 and 74, both dated 15<sup>th</sup> May, 2017 and the other documents are at Page 76 and 78 which are applications for condonation of delay, Corporate Debtor clearly stated in these documents regarding the Appellant to get the work executed. These applications at Page 76 & 78 were dated 27<sup>th</sup> March, 2017. Learned Counsel also referred to e-mail dated 21<sup>st</sup> April, 2018 (Page- 54) and invoices which are at Page- 51 to 53 to state that the Appellant had sent e-mail dated

21<sup>st</sup> April, 2018 to the 'Corporate Debtor' with copy sent to the Statutory Auditor of the Company, namely, Arun Kishor and referred to the works which the Appellant had done and demanding payment of the invoices. The learned Counsel further submitted that document at "Annexure 4 (Page 56) shows that the Appellant had prepared "Challan" and submitted for the 'Corporate Debtor' and all these documents show the services rendered by the Appellant.

3. It is argued that the notice under Section 8 (Page 67) was sent on 24<sup>th</sup> July, 2018 which was not replied. Counsel states that even the earlier e-mail dated 21<sup>st</sup> April, 2018 was not replied. Ultimately, the application under Section 9 was filed which according to the learned Counsel was wrongly rejected by the Adjudicating Authority. No prior dispute was shown and the dispute had been raised only in the reply filed by the 'Corporate Debtor' copy of which has been filed by the Appellant with rejoinder (Diary No. 18590). Counsel states that the Statutory Auditor filed Affidavit before Adjudicating Authority claiming that it was he who engaged the Appellant. Counsel states that the fact is that the Appellant was engaged by the 'Corporate Debtor' and the engagement was taken up at the instance of the Statutory Auditor.

4. The learned Counsel for Respondent is submitting that the 'Corporate Debtor' had engaged the Statutory Auditor and the Statutory Auditor was to do the job on behalf of the Company and at the instance of the Auditor the documents which are at Page 72, 74, 76 and 78 were executed by the

Respondent Company as the Auditor state that he will get the works executed through the Appellant who was well known to him.

5. Learned Counsel states that the Adjudicating Authority in Para- 11 of the impugned order noted that there was contradictory stand by the Appellant as in the application the Appellant had claimed that he was engaged by the Statutory Auditor.

6. None of the parties have filed copy of the application which was filed under Section 9. The parties may file copy of application under Section 9 for this Bench to further consider the matter.

7. The Appeal is treated as **part-heard**.

8. List the Appeal in 'Orders' category on **4<sup>th</sup> March, 2020**.

**[Justice A.I.S Cheema]**  
**Member (Judicial)**

**[Justice Anant Bijay Singh]**  
**Member (Judicial)**

**[Kanthi Narahari]**  
**Member (Technical)**

sim/md