



Magnum Lex
Advocates & Consultants

NEWSLETTER

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JUDGEMENTS

1. Mohit Minerals Ltd. vs. Nidhi Impotrade Pvt. Ltd.

A Demand Notice under Section 8(1) of the IBC, 2016 sent by an Advocate duly instructed by the Operational Creditor is a valid Demand Notice for the purpose of initiation of CIRP – National Company Law Appellate Tribunal

The brief facts of the case are that an Application filed by the Appellant Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) came to be dismissed at the hands of the Hon’ble Adjudicating Authority National Company Law Tribunal, Ahmedabad in terms of the impugned order holding the same to be not maintainable for the reasons that, the demand notice was issued without any authority.

After the perusal of Demand Notice, it came to the notice of the Hon’ble Bench that the same has been issued by Advocate under instructions from and on behalf of Operational Creditor. It is the dictum of the Hon’ble Apex Court in "**Macquaire Bank Limited v. Shilpi Cable Technologies Limited**" that, a demand notice delivered by an Advocate duly instructed by the Operational Creditor would be a valid demand notice for

purposes of initiation of CIRP. In view of the same, notice delivered could not be held to be bad in law unless it was shown that the lawyer was not duly instructed.

The Hon'ble Bench, NCLAT held that *"It is evident that the learned Adjudicating Authority had taken the correct view which is reflected in the aforesaid order. Judicial consistency would demand that the same view, which was based on the judgment of the Hon'ble Apex Court, should have been taken in the latter case as well. Once an Advocate was duly instructed to issue the demand notice, there was no room for holding that the notice delivered by the Advocate was not a notice delivered by an authorized person."*

Link:<https://nclat.nic.in/Useradmin/upload/19049700835ff83206067bb.pdf>

NOTIFICATIONS

1. Ministry of Power notifies price of one metric tonne of oil equivalent applicable for Designated Consumer of Second Cycle of Perform, Achieve and Trade (PAT) scheme – Press Information Bureau (06.01.2021)

For compliance under Energy Consumption Norms and Standards of Designated Consumer notified under PAT scheme, price of one metric tonne of oil equivalent is calculated based on the fuel mix used by various notified Designated Consumer in a specified target year.

Accordingly, the Ministry of Power, Government of India, notifies such price applicable for Designated Consumers of a specified cycle of PAT scheme for quantification of their compliance, in case of any default to meet the specified norms and standards.

The Ministry of Power, Government of India, in consultation with the Bureau of Energy Efficiency (BEE) has notified the price of per metric tonne of oil equivalent as INR 18402 only for the year 2018-19, vide G.S.R 779 (E) dated 14th December 2020.

For the succeeding target years, the price shall be such amount as may be specified by the Central Government, by notification in the Official Gazette. Such price will come into force on the date of their publication in the Official Gazette.

Link:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1686574>

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