

\$~24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.APP. 31/2018 & CM APPL. 54353/2018**

ICRI RESEARCH PVT LTD. Appellant

Through: Mr. Sunil Choudhary, Advocate.

versus

HARSHIT PROMOTERS PVT. LTD. Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

% **ORDER**
21.12.2018

SANJEEV NARULA, J.:

CM APPL. 54352/2018 (exemption)

1. Exemption allowed, subject to all just exceptions.

CM APPL. 54353/2018

2. For the reasons stated in the application, the delay in filing the appeal is condoned and the application is disposed of.

CO.APP. 31/2018

3. The present Appeal impugns the judgment passed in Company Petition No. 896/2015 that was decided along with the Company Petition No. 861/2015. Although the challenge in the present appeal arises at the instance of another creditor i.e. Harshit Promoters Pvt. Ltd (Respondent herein), the Appellant is the same i.e. ICRI Research Pvt. Ltd.

4. The facts of the present case are quite similar to Company Petition No. 861/2015. In this case, the Respondent provided an Inter-Corporate Deposit of Rs. 75 lacs to the Appellant and the same was repayable subject to payment of interest at the rate of 18% per annum within a period of 90 days. Appellant executed a promissory note for Rs. 75 lacs along with the post dated cheque dated 13th September, 2008 for an amount of Rs. 75 lacs. The Appellant also issued cheques dated 14th June, 2008 for a sum of Rs. 2,46,303/- towards the repayment of interest accruing on the Inter-Corporate Deposit. Unable to repay the outstanding dues, the Appellant sought extension for repayment of the aforesaid amount and issued post dated cheques. Thereafter, a post dated cheque for Rs. 45 lacs dated 30th September 2010 was issued, but the same was dishonoured and returned unpaid. The aforesaid amount along with interest remained due and outstanding. The Appellant received a communication dated 8th August, 2012 sent by the Respondent seeking balance confirmation. This letter was replied vide communication dated 4th March, 2013 enclosing therewith the confirmation of the debit balance as reflected in the books of accounts of the Appellant for the financial years 2009-10, 2010-11, 2011-12 and 2012-13.

The ledger account indicated the balance due and payable by the Appellant to the Respondent as Rs. 63,43,965/- as on 31st March, 2013. This debit balance confirmation was followed by issuance of a legal notice by the Respondent to the Appellant on 14th August, 2015. The notice was duly served upon the Appellant but no reply was given to the said notice and as a result, the Respondent filed a petition seeking winding up of the Appellant Company.

5. On hearing the winding up petition being No.896/2015, the Learned Company Judge noticed that the facts and issues arising in both the petitions are similar, and therefore the reasons recorded in the order passed in Company Petition No. 861/2015 were made applicable to Company Petition No. 896/2015. The learned Single Judge admitted the petition and appointed a provisional liquidator for taking over all the assets, books of accounts and records of the Appellant. The grounds urged by the Appellant in the present appeal challenging the impugned order are identical to those raised in Company Appeal No. 30/2018. In this case as well, the Appellant inter-alia denies the issuance of the communication dated 4th March, 2013 and argues that the Company Petition is not maintainable on the ground that the amount alleged to be due from the Appellant is barred by limitation.

6. We have already dismissed the Company Appeal No. 30/2018 recording our reasons for rejecting the arguments and contentions raised by the Appellant. The said reasons need not be reiterated in the present petition and it would suffice by observing that the reasons in the said appeal are also applicable to the present appeal.

7. In view of the foregoing, we find no reason to entertain the present Appeal and accordingly the same is dismissed with no order as to costs.

SANJEEV NARULA, J

S.MURALIDHAR, J

DECEMBER 21, 2018

SS

