

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 751 of 2019

IN THE MATTER OF:

M/s Camson Bio Technologies Ltd.

.....Appellant

Vs.

M/s Randstand India Pvt. Ltd.

.....Respondent

Present :

**For Appellant: Mr. Devender Singh with Mr. Rajesh,
 Advocates**

O R D E R

25.07.2019 - Section 9 application of the Insolvency & Bankruptcy Code, 2016 ('I&B' Code, for short) preferred by Respondent 'M/s. Randstand India Pvt. Ltd.' has been admitted by Impugned Order dated 14th August, 2018. For the said reason, the appeal by 'M/s. Camson Bio Technologies Ltd.' ('Corporate Debtor') through the Promoter is not maintainable in view of the decision of Hon'ble Supreme Court in "*Innoventive Industries Ltd. Vs. ICICI Bank (2018) 1 SCC 407*":

"11. Having heard the learned counsel for both the parties, we find substance in the plea taken by Shri Salve that the present appeal at the behest of the erstwhile Directors of the appellant is not maintainable. Dr Singhvi stated that this is a technical point and he could move an

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application to amend the cause-title stating that the erstwhile Directors do not represent the Company, but are filing the appeal as persons aggrieved by the impugned order as their management right of the Company has been taken away and as they are otherwise affected as shareholders of the Company. According to us, once an insolvency professional is appointed to manage the Company, the erstwhile Directors who are no longer in management, obviously cannot maintain an appeal on behalf of the Company. In the present case, the Company is the sole appellant. This being the case, the present appeal is obviously not maintainable. However, we are not inclined to dismiss the appeal on this score alone. Having heard both the learned counsel at some length, and because this is the very first application that has been moved under the Code, we thought it necessary to deliver a detailed judgment so that all courts and tribunals may take notice of a paradigm shift in the law. Entrenched managements are no longer allowed to continue in management if they cannot pay their debts.”

On the request made by learned Counsel for the Appellant, we allow any Director or Shareholder to file a petition for substitution as Appellant and to transpose ‘M/s Camson Bio Technologies Ltd.’ through Interim Resolution Professional as second Respondent within 10 days.

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The Appellant will also explain as to why the appeal has been preferred after more than one year and on what ground the delay is to be condoned and if necessary, application for condonation of delay may be filed within ten days. The Appellant will also state the stage of 'Resolution Process' as more than 270 days have already passed.

Place the case for 'orders' on **7th August, 2019.**

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/gc