

# Era Infra Engineering Ltd vs Prideco Commercial Projects Pvt Ltd on 3 May, 2017

. Appellant  
Respondent

Company Appeals (ATHins) Ne.3i of 2017  
ORDER

s & My. Manoj K. Singh, Mr. Vijaya Singh, Ma Hoarnall Roy, Mr Mahip Singh, Mr. Gyanendra Kumar, Mr. Tanukea De, &dvceates for the appellant.

TRER OF x.

\* NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI Pridece Commercial Projects Pwt Lid.

Era Infra Enginecring Lid Vs IN THE MA Present 4 " % rok 4 a a ae sO tek hag Beta ae poe er meet Sate wi + eee seer nee be oN a4 we. " new a i, tenet ace ha ren oe wee ong, we one ee a Oe we oy j 2% be Sa a o 7 "ea ye, eS Le "ee g ap were, ' hee, von "7 "ype pa ne POR toed tae o Sa Oe apes 3 a, te ms oe ue pe et e ed ot oe we fo ~ rans eS : . en elt 5 ns Bee GB Som, tae % a on oY, , "

fe o, ee tt ra am » oon nape, bee ' yee eehad "we hos nee, trees Soe yey os es wt we we me mw SS. 'nee gh cred wet wi TT yg weg it wong ne ve eo bs fi2. panee, Se, we ty 3 . a haat ee "e ; : gt : " A Bt ok 'ecto ke oS Ee ned Saab: eee n oe 3 pet ras its fen whe oe 2 a 4 so Be & Ye ae a eZ men BI ° Saw! Me this f a ey OA os mp w sy ag) om gee! "ae LS xB a ee . Ton a ae tek ai ee Te 'hee a ay zy ot ¥ yee, Sot » kK we Ff, we 4 : ot crn "food a he ee ape get ved eS 4; q . 4 : Z tf Yee fet ee va by, 'ba BS OE ca wt #5 aes A xt a a oy site 70 een z ae sy, . re see, ben ne toe 420 es ep eee ee, he ¥ wee wet fe oped, 4% Poa fat pug one a; ad cal fees © 8 nad @ ett we ? Shee oe BS is he ove fe et oa ben a 3 it Bogie ae on ia Nid i 'nat i os tent ¢ wr ne \* £ o peat \* " gn chat we Be ewes on we na, a . fe yoo, ee eee, oe Spe ben pons, ro oe hp oven ie es ~ bho : tes, % 25 Bp oe = \* awe ¥ tae Sal ~, ae nae Foss bo, os aet fo orn, ny ; yet ones werd: Sool \* tes ee vem 4 ; , os %3 mS Bow Be et me on, Se i oo peer "fe . sneer pap we whan ae anh Tat teed seed "nat Ks ft en Ce re, he see het os, rh ore, ret eet ee pest vet B " "il a co £ & Me ape ges wey x ee tied. Pym ee Sem ee, ee reg as Sere ie ay fae os \* het oe ibe we a my oe Cin tape ue at GG a a

- me eke , ext, wt copes at heat ms oh rs yee, a ee ed ere Sole, "EG en plot Sea Pa ai ae 'a ee tof fey ene, tb S . vad es wo fy lool ced! i 5 OR pet TR se a a, we ore. oe were 6 ae P aot Fy whee Aree ws .

Pow "er hh hee na fo, ee Ye gee. ee er, wna: s ae, er we or wt Be hel WA ba yy tet eA ' ney Tapes, eo jet ee z sy ve ST ame ey PY ge ee aE , tig ~ 4 5 .

a ne fe ES 8 4 3 nha : = 'oe nar! ve , Soa ws Fa rae f : be re "nt 'oat & & Be BF Fr op sm é ty yt Saat ge  
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mS ay oe Seo caged x oe we, BS wef we re 4 a, wy re wn Lt 1h ase rr A DP etc. bed & ot, oe fo, cas! ow,  
' ° ' 3 i y ODE EE LEA AEE EEE IELIEEELLA LDS we Ow ton ty % hab, eee \_ ifs contended that  
preferred' by Qnerational Creditor was not comple :

the Apmeliant' Cerperate Debtor was mot served any notice under the P & Bade  
SOTO, und the petition was not fled in terms insabvency and Bankruptcy  
(Apmiication to Adjudinating S. On notice, the Respondent Operational Crediter has  
appeared and doregiy affiriayn. Le. Counsel appearing on behalf of Gmerationsl  
Creditor while aaccepterd Chat Cade 2015, was served an aubmitted that earlier s  
notice Debtor under section 271 of the Companies Act, 2014, for winding up which  
should be treated fo be A nohkce for the puurpose of section 8 af the T& B Code,  
2016. Newever, such submissions made an behalf of the Operational Creciter cannot  
be soexptee provision under section S of the | & B Inacivency and Bankruptcy, Ruies,  
2076 (hereinafter rele ot

4. Insabverey resohitien by an Operational Crechter can be untated omy on the  
occurrence of a deieule which is to be follewerd by a demand noting of unpalkt  
Operationsl Dehter as stipulated sub-ssection (1) of section & 8a quoted below:

POPTPRE Hey teh PEI aS PREC be Per S Rule Sof f & B Rules also manrates an  
Operational Crediter to deliver the Corporate Debtor s demand notice in Form S ara  
cepy af an imveice attached with a nefice in Form 4, as cuuoted below: Sih f  
MASSSSPII II II IAA ABA Ppp db ereer reece, Fine, fs 'ee A redifer--- SPLOT & & ?

% £3 z < SFP RS a3 CHE SeRE, SPEaty eke versa' fa Mie corporate debtor mand  
notice by aperutonal De "Ss, sete. ood \* + \* Srey oP Se ak Ls rai oF eed Pe rey cS & yd  
oe = © syial it RAVE 2S SR © Ue Be \* + i my Yo ¥ ae hat x & t it tiecl Seve affics :

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sy "f absence of cde am we coe ae & \* & ¢ EVERY & RR a aee, EINES ROE Wee PF xy  
Re Ye RS % Son a Pe ns th In yrate Debtor, ase HP oN e the PUREE ee a PRE YF LAF  
"The Board may, by ge fa wry rrermeber or cumditions, U any Powers ane Sue under  
section 3 ss 5 SOES, Demand notes by € OP Preiery aN ans apple alion ye bees: Hox  
wy ph SE e Tes a rteey sys eh and the mandatery provisions . Though the application  
was not campicte and there was na yt ovre the defect, the Immuened order cannot be  
upheld.

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