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**BEFORE THE AJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. (I.B) No. 206/9/NCLT/AHM/2017**

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**  
**Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 13.02.2018**

Name of the Company: Nikita Enterprise.  
V/s.  
Kohinoor Diamonds Pvt Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	Jaimin R. Dave	Adv.	Petitioner	
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**ORDER**

Learned Advocate Mr. Jaimin Dave present for Operational Creditor/Petitioner.  
None present for Respondent.

Order pronounced in open court. Vide separate sheets.

  
**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Dated this the 13th day of February, 2018.

**BEFORE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH**

**C.P. No.(IB) 206/9/NCLT/AHM/2017**

**In the matter of:**

M/s. Nikita Enterprise  
Through its Proprietor Kaushik R.Doshi  
205, Shree Parshwanath Complex,  
Behind Sahastraphana  
Parshwanath Dehrasar,  
Subhash Chowk, Gopipura,  
Surat-395003

: Petitioner.  
[Operational Creditor]

Versus

Kohinoor Diamonds Private Limited  
Ashoka Tower, Kesharba Market-2,  
Gotalawadi, Katargam,  
Surat-395004

: Respondent.  
[Corporate Debtor]

Order delivered on 13th February, 2018.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J) – And -  
Hon'ble Ms. Manorama Kumari, Member (J).**

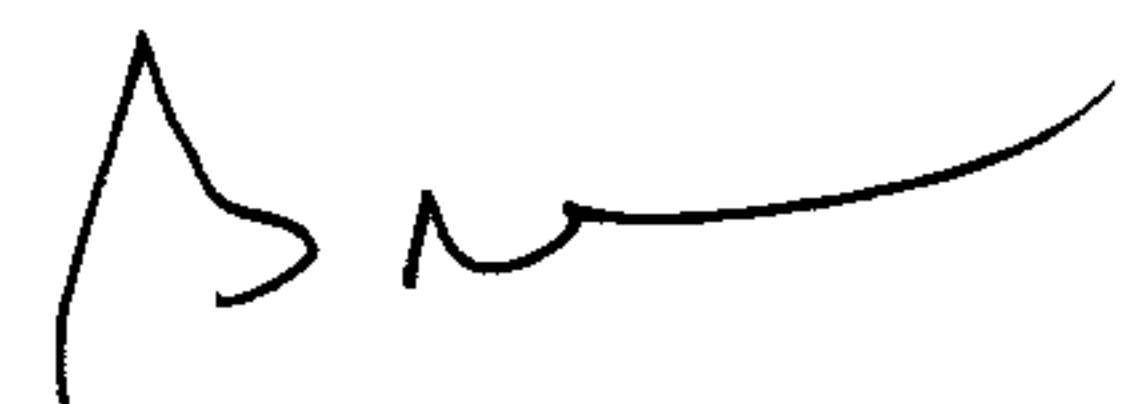
**Appearance:**

Mr. Jaimin Dave, with Mr. Priyank Dave, learned Advocate for the  
Petitioner.

None present for Respondent.

**ORDER**

**[ Per: Hon'ble Sri Bikki Raveendra Babu, Member (J) ]**



1. M/s. Nikita Enterprise, through its Proprietor, Shri Kaushik R. Doshi, filed this Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ["Code" for short] read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, ["Rules" for short] with a request to trigger Corporate Insolvency Resolution Process in respect of M/s. Kohinoor Diamonds Private Limited styling it as 'Corporate Debtor'.

2. Kohinoor Diamonds Private Limited is a Body Corporate constituted under the Companies Act, 1956 having its Registered Office at Surat. The Company is engaged in the business of manufacturing necklaces. The Respondent Company is in requirement of labourers/craftsmen for cutting and polishing diamonds. Petitioner is engaged in the business of providing labour services for cutting and polishing diamonds. Respondent approached the Petitioner for providing service in the nature of labour work for polishing and cutting rough diamonds.

3. Between the financial year 2012-2013, Petitioner provided services for polishing and cutting rough diamonds from time to time at the request of the Respondent. The details of the Invoices raised by the Petitioner are as under;

Bill date	Gross Amount	TDS	Amount Receivable After TDS
02.02.2017	165825	1658	164167
04.02.2013	160470	1605	158865
11.02.2013	140873	1409	139464

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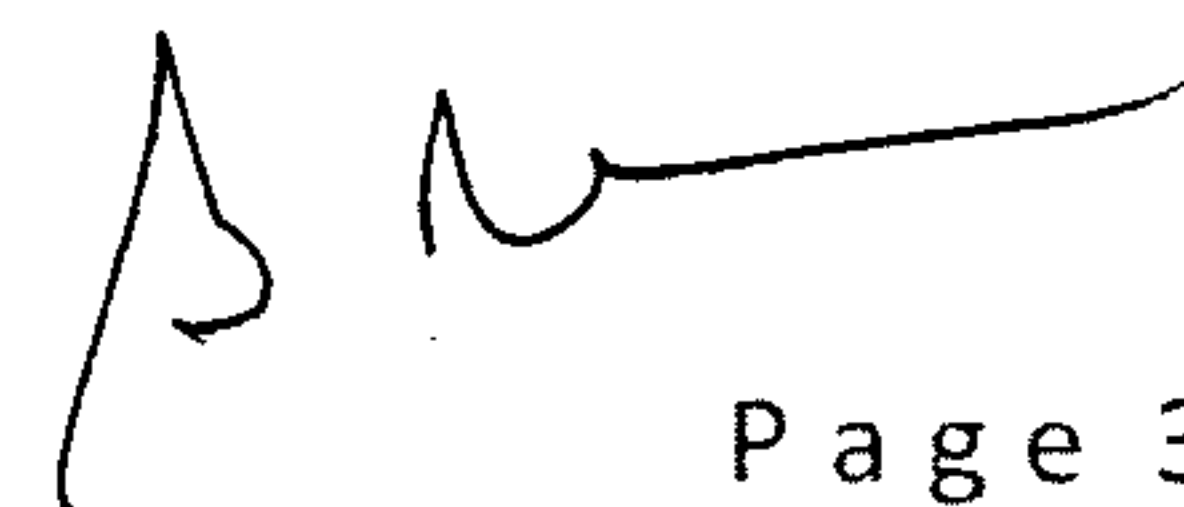
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25.03.2013	204410	2044	202366
<b>Total Debt</b>	<b>671578</b>	<b>6716</b>	<b>664862</b>

Respondent acknowledged the amount and deducted the tax also and issued Income Tax Certificate (TDS Certificate). Respondent is liable to pay an amount of Rs. 6,71,578/-. Respondent acknowledged the debt and confirmed the Ledger Balances for the years 2012-13 to 2016-17.

4. Petitioner issued Demand Notice under Section 8 of the Code read with Rule 5 of the Rules on 11.9.2017 calling upon the Respondent to pay Rs. 6,64,862/- within 10 days from the date of notice. The Demand Notice was served on the Respondent on 10.10.2017.

5. Respondent having received the Notice did not choose to make payment and did not choose to give reply. It is stated by the Petitioner that Respondent not only owe money to the Petitioner but also to several other persons and it was unable to clear the debts. It is further stated that the claim of the Petitioner is in respect of the claim for services provided to the Respondent Company from time to time and therefore the debt due to the Petitioner from the Respondent is an operational debt and the petitioner is an 'Operational Creditor'. It is also stated that the Respondent committed default in payment of the operational debt. The Petitioner proposed the name of Mr. Sunit Jagdishchandra Shah, as Interim Resolution Professional.




6. Petitioner served a copy of the Petition to the Respondent. Petitioner also served notice of date of hearing on the Respondent. In spite of service of notice Respondent did not choose to appear and file objections.

7. Heard arguments of learned counsel appearing for the Petitioner.

8. The Petitioner filed copies of Invoices and copies of TDS Certificate and copy of Ledger Confirmation supplied by the Respondent Company to establish that an amount of Rs. 6,64,862/- is due from the Respondent during the period between 16.1.2013 to 12.3.2013.

9. Petitioner issued Demand Notice as required by Section 8 of the Code read with Rule 5 of the Rules in Form-3 and the same was served on the Respondent. The Respondent did not choose to give any reply to the Petitioner. Petitioner also filed Bank Statements and the Certificate issued by the financial institution. Petitioner filed Form-2 Written Communication given by the proposed Insolvency Resolution Professional. Petitioner also filed Affidavit in support of the Petition. Therefore, the Petition is complete in all respects.

10. The amount claimed by the Petitioner from the Respondent is in respect of provision of services made to the Respondent Company from time to time. Therefore, Petitioner is an

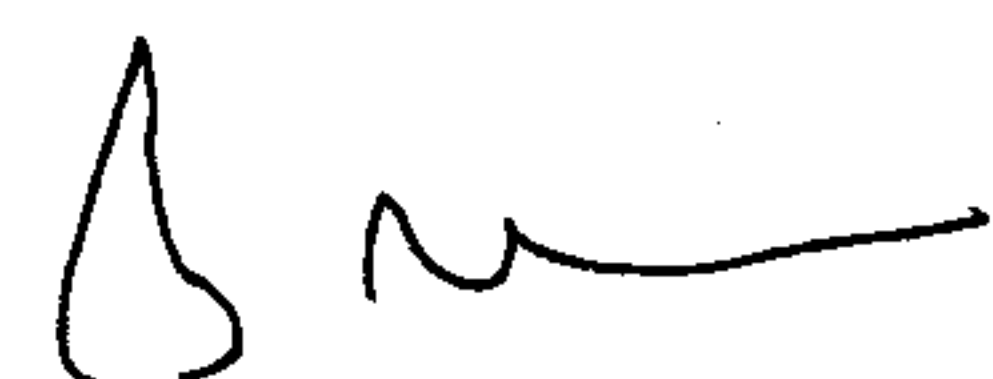
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Operational Creditor. The documents filed by the Petitioner and the confirmation of balance by the Respondent show that the amount claimed in this Petition is due and payable by the Respondent to the Petitioner. The material on record also show that there is occurrence of default in payment of operational debt by the Respondent to the Petitioner. No notice of dispute given by Respondent. No pre-existing dispute brought on Record.

11. In view of the above discussion, this Petition is admitted under Section 10(4)(a) of the Code.

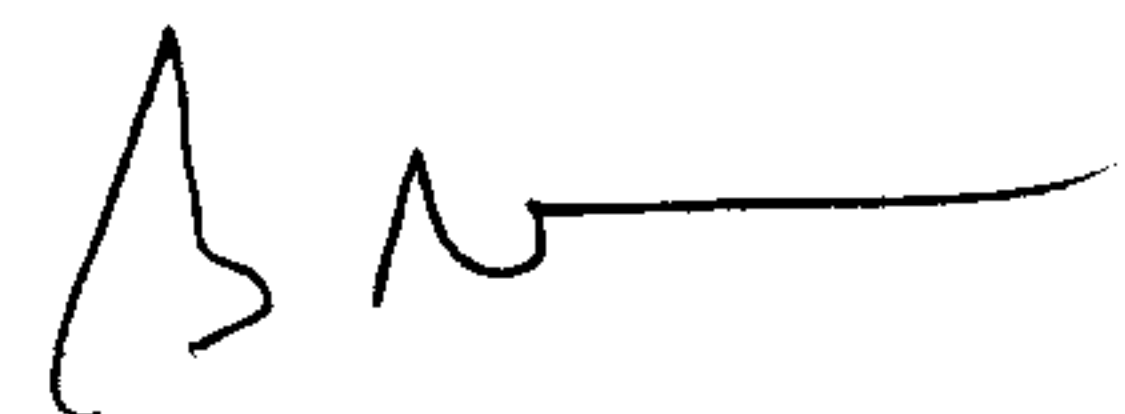
12. This Adjudicating Authority hereby appoint, Mr. Sunit Jagadishchandra Shah as 'Interim Insolvency Resolution Professional' having address at 303, 3<sup>rd</sup> Floor, Abhijeet-1, Mithakhali Six Roads, Navrangpura, Ahmedabad-6, with Registration No. IBBI/IPA-001/IPP00471/2017-18/10814, under Section 13(1)(c) of the Code.

13. The Interim Insolvency Resolution Professional is hereby directed to cause a public announcement of the initiation of 'Corporate Insolvency Resolution Process' and call for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



14. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (a) the institution of suits or continuation of pending suits or proceedings against the Company/corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) transferring, encumbering, alienating or disposing of by the Company/corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the Company/corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Company/corporate debtor.
  - (i) There shall not be any interruption, suspension or termination of supply of essential goods or services to the Corporate Debtor during the moratorium period.
  - (ii) The order of moratorium is not applicable to the transactions that may be notified by the Central




Government in consultation with any financial sector regulator.

- (iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.

15. This Application is disposed of accordingly. No order as to costs.

16. Communicate a copy of this order to the Operational Creditor and to the Respondent Corporate Debtor, and to the Interim Insolvency Resolution Professional.

Signature:

  
**Ms. Manorama Kumari,**  
**Member (Judicial)**  
**Adjudicating Authority.**

Signature:

  
**Sri Bikki Raveendra Babu,**  
**Member (Judicial)**  
**Adjudicating Authority.**

Rmr..