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**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 12.07.2019

CAUSE LIST - 2

PRESENT: 1. Hon'ble Member (J) Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T) Dr Ashok Kumar Mishra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 229/BB/2019	For hearing IA 333/19 – For recalling the order	Sec 7 of I&B code 2016	M/s India Infoline Finance Ltd	Singhanian & Co., Advocates	M/s Unishire Regency Park LLP	

ADVOCATE FOR PETITIONER/s: *Milind Dange - 9449592857 MRDL*
12/7

ADVOCATE FOR RESPONDENT/s: _____

ORDER

Heard Shri Milind Dange, learned Counsel for the Petitioner.
I.A.No.333/2019 is allowed by separate order.

Ashok
MEMBER (T)

Milind
MEMBER (J)

Shruthi

Verified

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Court Officer

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A No.333/2019 in
C.P (IB)No.229/BB/2019
Under Sub Rule 2 of Rule 48
R/w Rule 11 of NCLT Rules, 2016

In the matter of

M/s. India Infoline Finance Limited

802, 8th Floor,
Hubtown Solaris,
N.S.Phadke Marg,
Vijay Nagar,
Andheri East,
Mumbai – 400 069

- Applicant/Operational Creditor

Versus

M/s. Unishire Regency Park LLP

No. 42, Castle Street,
Ashok Nagar,
Bengaluru – 560 025

- Respondent/Corporate Debtor

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Date of Order: 12th July, 2019

Parties/Counsel Present:

For the Applicant : Shri Milind Dange
For the Respondent : None

ORDER

Per: Shri Rajeswara Rao Vittanala, Member (Judicial)

1. IA.No.333/2019 in C.P.(IB)No.229/BB/2019 is filed by M/s. India Infoline Finance Limited ('Applicant/Operational Creditor') Under Sub Rule 2 of Rule 48, R/w Rule 11 of NCLT



Rules, 2016, by inter alia, seeking to recall the order dated 05.07.2019, and consequently restore the main Company Petition to file etc.

2. The case is listed before the Bench on 29.05.2019 for non-compliance of office objections, and on that day neither Petitioner nor anybody represents for Petitioner. Therefore, the case was listed under the caption "for dismissal" on 05.07.2019, on that day also none appears for the party, the case was dismissed for default.
3. Heard Shri Milind Dange, learned Counsel for the Applicant/ Operational Creditor. We have carefully perused the pleadings of the party along with extant provisions of Code.
4. Brief facts of the case as mentioned in the Application filed by the Applicant, are as follows:
 - (1) The Registry had escalated certain compliance discrepancy in the Original Petition vide Office Objection dated 29.05.2019, which was sent by the Registry to the undersigned by email dated 18.06.2019 to comply the office objections raised by the Registry on or before 07.06.2019.
 - (2) The Registry had escalated three (3) discrepancies against the Original Petition, whereby, the Registry has asked the Applicant to submit the a) Board Resolution authorizing the signatory; b) to furnish the Record of Default with the information Utility/NeSL; and c) sworn affidavit of the proposed IRP before the competent authority.
 - (3) The Applicant was of the opinion that the submission of Record of Default with The Information Utility (in form C) is not mandatory on the part of the Financial Creditor, who has filed the Application U/s. 7 of IBC, 2016. However, on



receiving the Office Objection regarding the same, the undersigned informed the same to the Applicant, who in turn has filed information on 26.06.2019 with NeSL in Form – 1, under serial No.3 of Part V, prescribed under the I&B (AAA) Rules, 2016. While the Applicant was waiting for the certificate of Record of Default to be issued by NeSL and the matter is listed before the bench on 05.07.2019 and dismiss the Application, on the ground of non-prosecution.

5. We are convinced with the reasons cited by the Applicant/Petitioner for not attending/prosecuting the case on 05.07.2019 and earlier. Therefore, we are inclined to allow the Application in the interest of justice, however, subject to payment of costs.
6. Hence, I.A.No.333/2019 in C.P(IB)No.229/BB/2019 is allowed by set aside the Order dated 05.07.2019, and restore the original Company Petition to file, however subject to payment of cost of Rs.5,000/- (Rupees Five Thousand only) to “*The Bengaluru Professionals Benevolent Fund*”, Kotak Mahindra Bank, High Court of Karnataka, High Court Buildings, Dr. Ambedkar Veedhi, Bengaluru - 560001, [A/c. No. 237010001731, IFSC: KKBK0008085], which is to be paid by the Petitioner, before the next date of hearing and submit proof of payment.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL