

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No 140

IA/508(AHM)2021 in CP(IB) 272 of 2020

Order under Section 60(5) IBC, 2016 r.w Rule 11 of NCLT, 2016

IN THE MATTER OF:

Madhu Chaudhry Sole Proprietor of Sher Singh Palace

.....Applicant

V/s

Oyo Hotel & Homes Pvt Ltd

.....Respondent

Order delivered on ..17/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Chockalingam Thirunavukkarasu, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The matter is listed today for pronouncement of the order.

The order is pronounced in the open court, vide separate sheet.



(CHOCKALINGAM THIRUNAVUKKARASU)

MEMBER (TECHNICAL)



(MADAN B GOSAVI)

MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT No.2**

**IA No. 508 of 2021 in
CP(IB) No. 272 of 2020**

In the matter of:

Madhu Chaudhry (Sole Proprietor)
Of Sher Singh Palace

Having office at:

Chaudhry Mall, 19 Main GT Road,
Road Ghaziabad Uttar Pradesh

...Applicant/Operational Creditor

Versus

OYO Hotels And Homes Pvt. Ltd.

Having Registered Office at:

Ground Floor-001,

Mauryansh Elanza,

Shyamal Cross Road,

Nr. Parekh Hospital, Satelite

Ahmedabad, Gujarat-380015

....Respondent

**Order Reserved on : 10.08.2021
Order Pronounced on : 17.08.2021.**

**Coram: Madan Bhalchandra Gosavi, Member (Judicial)
Chockalingam Thirunavukkarasu, Member (Technical)**

Appearance: Mr. Pankaj Jain, Advocate for the Applicant and Ms. Rachna Pastore,
Advocate for the Respondent.



ORDER
[PER BENCH]

1. The instant application is filed by the Applicant with the following prayers:

*(A). To pass necessary order(s)/ directions for revival of the **Company Petition (IB) No. 272/NCLT/AHM/2020** filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by the Applicant in the interest of justice and order be passed for initiation of CIRP proceedings against the Corporate Debtor.*

(B). To consider the CP(IB) No. 272 of 2020 from the order reserve stage post the hearing as it was earlier given that pleadings and arguments have already concluded in the matter and case be decided on its merits.

2. The Petitioner has submitted in the application:

(i) That the Operational Creditor/Applicant had moved the Company Petition IB No. 272/NCLT/AHM/2020 for seeking direction of this Hon'ble Court for initiating CIRP of the Corporate Debtor.

(ii) That vide order dated 31.03.2021, this Hon'ble Adjudicating Authority dismissed the application under Section 9 bearing CP(IB) No. 272 of 2020, being infructuous reason being one petition CP(IB) No. 40 of 2020 against the same Corporate Debtor was already admitted before

Shoekah


i.e 30.03.2021. A copy of order dated 31.03.2021 in CP(IB) No. 272 of 2020 is enclosed as Annexure-2.

- (iii) That the Applicant filed claim with IRP which is annexed as Annexure-3.
- (iv) That the present Interlocutory Application is filed by the Applicant/Operational Creditor for seeking revival of CP(IB) No. 272 of 2020 since Hon'ble Appellate Authority (NCLAT) quashed the initiation of CIRP of the Corporate Debtor in CP(IB) No. 40 of 2020 vide order dated 07.07.2021 due to settlement and payment of defaulted debt between the parties therein in Company Appeal (AT) (Insolvency) No. 298 of 2021. A copy of said order enclosed as Annexure-4.
- (v) That the Applicant had filed Intervention Application, I.A No. 941 of 2021 in Company Appeal (AT) (Insolvency) No. 298 of 2021 before Hon'ble National Company Law Appellant Tribunal which is now dismissed with liberty to initiate CIRP against the Corporate Debtor by this Adjudicating Authority in CP(IB) No. 272 of 2020.
- (vi) That the Applicant/Operational Creditor has outstanding claim amounting to Rs. 1,53,85,851/- against the Corporate Debtor under adjudication. That this Hon'ble Adjudicating Authority may appoint such person as Interim Resolution Professional (IRP) as deemed fit and appropriate by this Hon'ble Tribunal.



3. Since the initiation of CIRP against the Corporate Debtor in CP(IB) No. 40 of 2020 is set aside by Hon'ble NCLAT vide its order Company Appeal (AT) (Insolvency) No. 298 of 2021, IA No. 508 of 2021 is allowed and Company Petition (IB) No. 272 of 2020 is revived and restored to its file.
4. The Petitioner as well as Registry is directed to issue notice upon Respondent.
5. List the Company Petition (IB) No. 272 of 2020 on 06.09.2021.


(CHOCKALINGAM THIRUNAVUKKARASU)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

SAPNA