

15

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P No. 1285/(MAH)/2017

CORAM:

Present:

SHRI B.S.V. PRAKASH KUMAR  
MEMBER (J)

SHRI V. NALLASENAPATHY  
MEMBER (T)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 05.12.2017

NAME OF THE PARTIES: Kanchan Rai and Mr. Ajit Kumar  
V/s.  
Leofortune Infrabuildcon Pvt. Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
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Mr. Karol Tamboly  
Mr. Rahul Hingmire  
Mr. Rakesh Lalchamani  
i/b. Vis Legis Law Practice  
For Financial Creditors

  
5/12/2017

ORDER

CP No.1285/ I&BP/NCLT/MB/MAH/2017

First Call : Pass over for filing withdrawal memo and consent terms.

Second Call: On the withdrawal memo filed by the Petitioner Counsel, this Company  
Petition is hereby dismissed basing on the consent terms arrived at between the parties.

**Sd/-**

V. NALLASENAPATHY  
Member(Technical)

**Sd/-**

B. S. V. PRAKASH KUMAR  
Member (Judicial)

Encl: Consent terms.

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, AT MUMBAI.

C.P. (ISB) NO. 1285 OF 2017

MS. KANCHAN RAI & MR. AJIT KUMAR

...THE FINANCIAL CREDITORS

/APPLICANTS

VERSUS

LEOFORTUNE INFRABUILDCON PRIVATE LIMITED

...THE

CORPORATE

DEBTOR

**CONSENT TERMS**

1. The above company petition has been filed by Applicant Nos. 1 and 2, on account of failure of the Corporate Debtor to pay following financial debt:

a) a sum of Rs.29,53,318/- (Rupees Twenty-Nine Lakhs Fifty-Three Thousand Three Hundred and Eighteen Only) being the principal amount along with interest at the rate of 2.92 percentage per month from 4 August 2016 to 1 August 2017, the total amounting to Rs.40,24,790/- (Rupees Forty Lakhs Twenty-Four Thousand Seven Hundred and Ninety Only) due and payable to Applicant No. 1.

b) a sum of Rs.1,49,600/- (Rupees One Lakh Forty-Nine Thousand Six Hundred Only) being the principal amount along with interest at the rate of 2.92% per month from 9 November 2016 to 1<sup>st</sup> August 2017, the total amounting

*[Handwritten signatures and initials at the bottom of the page]*

to Rs.1,87,801/- (Rupees One Lakh Eighty-Seven Thousand Eight Hundred and One Only) due and payable to Applicant No.2.

2. The parties i.e. Applicant Nos. 1 and 2 on one hand and the Corporate Debtor on the other hand, have now agreed to amicably settle the disputes and claims which had arisen between them (being subject matter of the above company petition).
3. During the pendency of the above company petition, on 11<sup>th</sup> September 2017 and 15<sup>th</sup> September 2017, the Corporate Debtor made payments of Rs. 10,00,000/- and Rs. 1,00,000/- respectively (total Rs. 11,00,000/-) to the Applicants in their bank account being maintained jointly by them. The Applicants acknowledge the receipt of the same.
4. As per the mutually agreed terms between the parties, the present Consent Terms are being filed and the terms of such amicable settlement are set out hereunder:
  - a) The Corporate Debtor undertakes to make a consolidated payment of Rs.31,12,591/- (Rupees Thirty-One Lakhs Twelve Thousand Five Hundred and Ninety-One Only), in following installments:

Sr. No.	Amount	Date	Mode of Payment
1.	Rs. 4,00,000/- (Rupees Four Lacs Only)	20 <sup>th</sup> September 2017	Demand Draft /Pay Order or RTGS
2.	Rs. 10,00,000/- (Rupees Ten Lacs Only)	29 <sup>th</sup> September 2017	Demand Draft /Pay Order or RTGS
3.	Rs. 5,00,000/- (Rupees Five Lacs Only)	10 <sup>th</sup> October 2017	Demand Draft /Pay Order or RTGS

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4.	Rs. 5,00,000/- (Rupees Five Lacs Only)	20 <sup>th</sup> October 2017	Demand Draft /Pay Order or RTGS
5.	Rs. 7,12,591/- (Rupees Seven Lacs Twelve Thousand Five Hundred and Ninety One Only)	30 <sup>th</sup> October 2017	Demand Draft /Pay Order or RTGS

respectively towards full and final settlement of all disputes and claims that the Applicants have against the Corporate Debtor as set out in the captioned company petition.

- b) The Corporate Debtor undertakes to make payment of the above five installments on their respective due dates, by way of Demand Draft /Pay Order before the Hon'ble National Company Law Tribunal and/or through RTGS in the bank account maintained jointly by the Applicants. The bank account details of the joint account of the Applicants in which the Corporate Debtor undertakes to deposit the above two installments are as under:

**Name: Kanchan Rai and Ajit Kumar**

**Bank Name: HDFC Bank**

**Account No.: 50100197130719**

**Branch Address: Hiranandani Business Park, Powai**

**IFSC Code: HDFC0000239**

- c) Further, as per the Buy Back Guarantee letter dated 11 December 2015 issued by the Corporate Debtor with regards to the flat no. 402 issued by the Corporate Debtor in favour of Applicant No.2, the Corporate Debtor also undertakes to pay a sum of Rs. 20,40,000/- (Rupees Twenty Lakhs Forty Thousand Only) to the Applicant No. 2 by way of a cheque dated 11

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December 2017 drawn on IndusInd Bank bearing no. 234747 in a sum of Rs.20,40,000/- (Rupees Twenty Lakhs Forty Thousand Only), already being issued and handed over to Applicant No. 2. The Corporate Debtor undertakes to maintain sufficient balance in the said bank account of the Corporate Debtor and honour the above mentioned cheque in favour of the Applicant No. 2 on 11 December 2017. In the event, instead of the payment by way a cheque, if Applicant No. 2 agrees to receive the above sum of Rs. 20,40,000/- (Rupees Twenty Lakhs Forty Thousand Only) by way of RTGS transfer, then Corporate Debtor undertakes to deposit a sum of Rs. 20,40,000/- (Rupees Twenty Lakhs Forty Thousand Only) by way of RTGS transfer in the following bank account of Applicant No. 2:

**Name: Ajit Kumar**

**Bank Name: HDFC Bank**

**Account No.: 00271000045286**

**Branch Address: Greater Kailash**

**IFSC Code: HDFC0000027**

- d) In terms of the settlement reached between the parties and strictly upon receipt of the entire claim amount i.e. Rs. 31,12,591/- (Rupees Thirty-One Lakhs Twelve Thousand Five Hundred and Ninety-One Only) from the Corporate Debtor, the Applicants undertake to withdraw following:
- i. the proceeding before this Hon'ble National Company Law Tribunal instituted under the Insolvency and Bankruptcy Code, 2016 i.e. bearing no. 1285 of being initiated by the Applicants against the Corporate Debtor.

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- ii. the proceeding before 44<sup>th</sup> Metropolitan Magistrate Court at Andheri instituted under the Negotiable Instrument Act, 1881 i.e. complaint bearing no. 609 of 2017.
- iii. the proceeding before 63<sup>rd</sup> Metropolitan Magistrate Court at Andheri instituted under the Negotiable Instrument Act, 1881 i.e. complaint bearing no. 1429 of 2017.

5. In the event, the corporate debtor defaults in making payments of the above mentioned agreed and settlement amounts as per the said schedule, the Applicants through their Advocates shall give a 48 hours' notice to Mr. Sithapathy Chavali, Director of the Corporate Debtor through email on (sitapathyc@yahoo.com) or text message on (+91 9320018283) to rectify the default. In the event of such default not being cured as agreed in the above clause 2 then:

- a) the amounts, if any, paid by the Corporate Debtor to the Applicants till such date of the default, shall stand forfeited by the Applicants without any further notice to the Corporate Debtor.
- b) The said company petition no. 1285 of 2017 shall be admitted and all provisions of Insolvency and Bankruptcy Code applicable to the petition admitted thereafter shall follow and Mr. Rahul Kavthekar, i.e. the proposed Insolvency Resolution Professional shall be appointed as "Interim Insolvency Resolution Professional" in the company petition no. 1285 of 2017.

6. Upon receipt of the abovementioned amounts as set out in clauses 4.a and 4.c of these Consent Terms, the Applicants will not have any claims against the Corporate Debtor.

IN WITNESS WHEREOF, the Parties sign this Agreement at Mumbai and on the 18<sup>th</sup> day of September, 2017.

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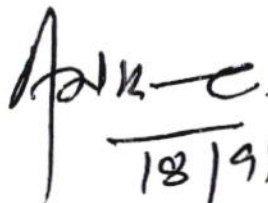
*Shri*

SIGNED AND AGREED BY:

1. Kanchan Rai – The Financial Creditor /Applicant No. 1

  
18/9/2017

2. Ajit Kumar – The Financial Creditor /Applicant No. 2


  
18/9/2017

3. Leo fortune InfraBuildcon Pvt. Ltd. – the Corporate Debtor

  
18/9/17

4. Mr. Sitapathy Chavali

Director of the Corporate Debtor

  
18/sep/2017


5. Mr. Prasad Kumar Swami

Director of the Corporate Debtor


  
21/09/2017

6. Mr. Pradeep Kumarswami

Director of the Corporate Debtor

  
18/sep/2017

7. Mr. Vasant Dhaniji Bambhaniya  
Director of the Corporate Debtor


  
18/9/17

1  
8. Mr. Dhiren Champak Savla  
Director of the Corporate Debtor

*Dhiren*  
18/9/17

For Vis Legis Law Practice

  
Managing Attorney  
Advocate for the Applicants/ Financial Creditors  
Debtor

  
Advocate for the Corporate

Rahul Hingmire

to Ajit, Rachit, me, Nihar

10:40 PM (11 hours ago)

Dear Ajit,

Please note that the captioned petition is listed tomorrow at Sr. No. 15 before the the National Company Law Tribunal, Bench no. 1. We have informed our counsel Mr. Karl Tamboly and Mr. Malcolm Siganporia about the same.

Further, as discussed, please find attached herewith draft application for withdrawal of the captioned petition.

Please provide your approval and instructions, to file the said application for withdrawal on your behalf before the Hon'ble Bench and withdraw the captioned petition.

Regards,

Rahul Hingmire - Managing Attorney

**Vis Legis Law Practice, Advocates**

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Eleventh Floor,

Raheja Chambers,

Free Press Journal Marg,

Nariman Point,

Mumbai - 400021.

Office No. - (022)22885551/2

Mobile No. - (091) 9833768107

Email Id - [rahul@vllp.co.in](mailto:rahul@vllp.co.in)

ANNEXURE - "B"



**Ajit Kumar** <ajitkumaretn@gmail.com>  
to Rahul, Rachit, me, Nihar ▾

10:45 PM (11 hours ago)

Dear Rahul,

Reference your below email. I approve the withdrawal of company petition no 1285 of 2017.

Rgds,

Ajit Kumar

Regards,

Rahul Hingmire - Managing Attorney

**Vis Legis Law Practice, Advocates**

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