

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

T.C.P No. 228/(MAH)/2017

CORAM:





Present: SHRI M.K. SHRAWAT
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 20.12.2017

NAME OF THE PARTIES: AKG Shuttrings Pvt. Ltd.
V/s.
Indore Treasure Market City Pvt. Ltd.

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

S. No.	NAME	DESIGNATION	SIGNATURE
19.	Komal Jodhi DEBTOR	Adv for Intervenor Insight Hotels	
	Adv. Asit Singh Tawar	Advocate for Intervening Financial Creditors	
	Tarun Gupta	 Director for operational creditors	

ORDER
TCP 228/I&BC/NCLT/MB/MAH/2017

1. Learned Representatives of the Creditor and Debtor are present.
2. Placed on record Consent Terms, to be made part of the Record.
3. As a result, the petition disposed of accordingly.

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Date : 20.12.2017

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Sd/-

M.K. SHRAWAT
Member (Judicial)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH**

TRANSFERRED COMPANY PETITION NO. 228 OF 2017

In the matter of the Insolvency
under Section 9 of Insolvency and
bankruptcy Code 2016;

AND

In the matter of:

AKG Shuttrings Private
Limited.....Corporate Applicant

Vs

Indore Treasure Market City
Private Limited...Corporate Debtor;

J.M. Financial Asset Reconstruction
Company Limited

and

Insight Hotel and Leisure Private
Limited...Intervenors

**CONSENT TERMS DATED
19th DAY OF DECEMBER 2017**

Operational Debtor and to take out appropriate proceedings to enforce the above undertaking.

AKG SHUTTERINGS PRIVATE LIMITED



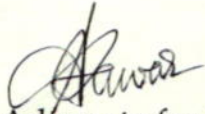
Advocate for Operational Creditor



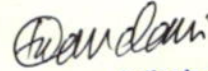
DIRECTOR

Operational Creditor

JM Financial Asset Reconstruction Company Ltd.



Advocate for JMFARC



Authorised Signatory

Authorised Officer JMFARC

distribution of the sale proceeds will be as per the statutory scheme under the IBC Code, 2016.

(d) The parties are conscious that receipt of the balance sale consideration may take some time in view of pendency of the matter before the Hon'ble Debts Recovery Tribunal, Jabalpur. In these circumstances, the Operational Creditor agrees to keep the present Petition in abeyance, till conclusion of the present transaction or for a period of three months whichever is earlier.

(e) It is agreed, declared and confirmed that the present arrangement is only an arrangement for distribution of the sale proceeds and giving an amount of Rs.48,00,000/- from the sale proceeds. In the event the sale is ~~not~~ ⁱⁿ ~~materialized~~, cancelled or set aside, JMFARC will not be personally liable for making the payment. However, in the event the said sale goes through and the sale proceeds are received, JMFARC undertakes to release the payment to the Operational Creditor as per the terms agreed hereinabove.

(f) In the event of non-payment as per the agreed terms in sub-clause (e) above, the Operational Creditor shall be entitled to pursue the present Petition against the

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4. It is a matter of record that the Operational Debtor has filed Securitization Application No. 124 of 2017 before the Hon'ble Debts Recovery Tribunal, Jabalpur. The said Application is pending as on date. In view of the aforesaid interim order passed in the said Application, the Sale Certificate is not issued.

5. In these facts and circumstances, without prejudice to the rights and contention of the parties, the Operational Creditor, JMFARC and Auction Purchaser have agreed to the following:-

(a) JMAFRC undertakes to pay to the Operational Creditor an amount of Rs.48,00,000/- (Rupees Forty Eight Lakhs only) from the sale proceeds of the property of the Operational Debtor. This payment will be towards full and final settlement of the dues of the Operational Creditor.

(b) The payment will be made within a period of one week of receipt of the balance 75% of the sale consideration from the Auction Purchaser.

(c) It is hereby clarified that in the event any other creditor or any other party files a petition under the provisions of the IBC, 2016 and if the same is admitted before receipt of the sale consideration, then in that event the

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by JMFARC and the Auction Purchaser is that the sale of the subject property has already been conducted under the provisions of the SARFAESI Act, 2002 and confirmed in favour of the Auction Purchaser. Therefore, the assets which are sold to the Auction Purchaser cannot be the subject matter of the proceedings under the IBC Code, 2016. Whereas it is the Petitioner's contention that the intervention application cannot be allowed since the sale in by JMFARC in favour of Insight Hotels and Leisure Pvt. Ltd is not a concluded sale in view of the balance 75 per cent sale consideration having not been deposited with JMAFRC and because of the stay to the sale confirmation and to the sale certificate by DRT Jabalpur.

2. The Operational Creditor however, is agreeable to the proposition advanced by the JMAFRC and Insight Hotels Pvt. Ltd to not pursue its claim in the event an amount of Rs.48,00,000/- (Forty eight Lakhs) is paid from the sale proceeds, towards full and final settlement of its claim.

3. The lenders are of the view that it is in the interest of the lenders and other stake-holders that the sale conducted under the provisions of the SARFAESI Act, 2002 shall not be disturbed in any manner at this stage and the same shall be concluded and distributed after conclusion of the sale at the earliest.

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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

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J.M. Financial Asset Reconstruction Company Limited
and
Insight Hotel and Leisure Private Limited...Interveners

CONSENT TERMS

1. The present Petition is filed by the Operational Creditor. The Petition is filed in view of the fact that the Operational Debtor has failed to pay an amount of Rs.61.36 lakhs to the Operational Creditor. Pursuant to transfer of the Petition to this Hon'ble Tribunal, J.M. Financial Asset Reconstruction Company Limited ("JMFARC") and Insight Hotel and Leisure Private Limited ("Auction Purchaser") preferred an application for intervention in the present Petition. The contention raised

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