

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

(IB)-218(PB)/2017

IN THE MATTER OF:

M/s. Incedo Technology Solutions Ltd.

.....Petitioner

v.

Getit Grocery Pvt. Ltd.

.....Respondent

SECTION : UNDER SECTION 9 OF IBC, 2016

Order delivered on 12.09.2017

Coram:

CHIEF JUSTICE M.M. KUMAR

Hon'ble President

Deepa Krishan

Hon'ble Member (T)

For the Petitioner(s) : Mr. P.K. Mittal & Ms. Nibruti Samal, Advocates

For the Respondent(s) :

ORDER

Learned counsel for the petitioner has shown us the affidavit of service which clarifies that the three methods to serve the respondent company were adopted namely Speed post, e-mail and personal service by deputing the clerk of the learned counsel. However, the service through speed post and e-mail could not succeed. The postal stamp on the envelope shows that the respondent not found so returned back to the sender. Even the e-mail has bounced back. The clerk of the learned counsel also filed

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his affidavit mentioning the fact that the registered office as per the master data was found locked. In the aforesaid circumstances substituted service is the only option left. Let the petitioner take steps under Order V Rule 20 CPC read with Rule 35 of the NCLT Rules, 2016. Rule 35 of the NCLT, Rules, 2016 is as under:-

“Advertisement detailing petition.- (1) Where any application, petition or reference is required to be advertised, it shall, unless the Tribunal otherwise orders, or these rules otherwise provide, be advertised in Form NCLT-3A, not less than fourteen days before the date fixed for hearing, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situate, and at least once in English language in an English newspaper circulating in that district.

(2) Every such advertisement shall state;-

- (a) the date on which the application, petition or reference was presented;
- (b) the name and address of the applicant, petitioner and his authorised representative, if any;
- (c) the nature and substance of application, petition or reference;
- (d) the date fixed for hearing;

(e) a statement to the effect that any person whose interest is likely to be affected by the proposed petition or who intends either to oppose or support the petition or reference at the hearing shall send a notice of his intention to the concerned Bench and the petitioner or his authorised representative, if any, indicating the nature of interest and grounds of opposition so as to reach him not later than two days previous to the day fixed for hearing.

(3) Where the advertisement is being given by the company, then the same may also be placed on the website of the company, if any.

(4) An affidavit shall be filed to the Tribunal, not less than three days before the date fixed for hearing, stating whether the petition has been advertised in accordance with this rule and whether the notices, if any, have been duly served upon the persons required to be served: Provided that the affidavit shall be accompanied with such proof of advertisement or of the service, as may be available.

(5) Where the requirements of this rule or the direction of the Tribunal, as regards the advertisement and service of petition, are not complied with, the Tribunal may either dismiss the petition or give such further directions as it thinks fit.

(6) The Tribunal may, if it thinks fit, and upon an application being made by the party, may dispense with any advertisement required to be published under this rule."

Accordingly, advertisement in the English Daily and Hindi Daily as per the above-mentioned rule be carried.

List for further consideration on 25.10.2017.

→ Sd →

(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT

→ Sd →

(DEEPA KRISHAN)  
(MEMBER TECHNICAL)

12.09.2017  
VINEET