

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, MUMBAI

C.P. NO.896/ I & BP / NCLT/MB/MAH/2017

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COMPANY PETITION NO.896/ I & BP / NCLT/MB/MAH/2017**

**APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE
INSOLVENCY RESOLUTION PROCESS IN RESPECT OF
M/s. CYTRUS CHECK INNS LTD.**

(Section 9 of the Insolvency and Bankruptcy Code 2016 and Rule 6 of the
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016).

CORAM:

**SHRI M.K. SHRAWAT
MEMBER (JUDICIAL)**

Mrs. SAYALI S. RANE
13/1/B, Shree Niwas Chawl,
Shastri Nagar, Kanjurmarg(E)
Mumbai – 400 042.

).....Petitioner.

Versus

M/s. CYTRUS CHECK INNS LTD.
16-19, Shilpin Centre, 1st Floor,
40, G.D. Ambedkar Marg,
Wadala, Mumbai- 400 031.

)Respondent.

PRESENT ON BEHALF OF THE PARTIES

FOR THE PETITIONER

Advocate Sachin Chandrakant Raje

FOR THE RESPONDENT

Advocate Prema G. Kadam

ORDER

Date of Hearing : 2nd May, 2017

Date of Pronouncement: 2nd May, 2017.

1. This Petition i.e. Form No. 5 has been filed by the Petitioner on 27th of April, 2017 under the provisions of Insolvency and Bankruptcy Code, 2016 in the capacity of "Operational Creditor".

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2. The Petitioner has affirmed that M/s. Citrus Check Inns Limited is a "Corporate Debtor/Operational Debtor" who had defaulted in not refunding an amount of Rs.1,12,537/- which was paid towards purchase of Holiday Plan Certificate. The said amount was due on 22/04/2016.
3. That the Debtor had acknowledged the said debt vide a letter dated 01.04.2017 wherein affirmed that the amount in question is payable to the Petitioner on account of refund of the amount paid towards purchase of the Holiday Plan Certificate from the Company. The Petitioner has placed on record the Service of Form No. 5 stated to be served on 24th April, 2017 on the Respondent/Debtor.
4. That from the side of the Respondent Debtor Learned Representative Prema Kadam is present and not objected the initiation of the provisions of the Insolvency and Bankruptcy Code. Under this situation the accepted as also admitted position is that the impugned debt falls within the ambits of "Operational Debt" hence to be adjudicated upon as per the provisions of Section 8 and 9 of the Code.
5. That the Petitioner has placed on record the evidences to establish the existence of "Debt" as defined under Section 3(11) of the Code. The Petitioner has also established that the "default" as defined under Section 3(11) of the Code existed in this case. The Respondent has not raised any objection of the debt by issuing any Notice of Dispute.
6. As per the provisions of Section 9(1) of the Code after the expiry of the period of 10 days, from the date of delivery of the Demand Notice, if the Operational Creditor does not receive payment from the Corporate Debtor and there is no **Notice of Dispute** then the Adjudicating Authority shall initiate Corporate Insolvency Resolution Process.
7. That Section 9(4) prescribes initiation of Corporate Insolvency Resolution by proposing name of Insolvency Professional. In this case the Petitioner has proposed Mr. Devendra Padamchand Jain, A-43, Prime Plaza, Opp. DLA School, Bodakdev, Ahmedabad, Mobile No. 9712154455, IP Registration No. IBBI/IPA-001/IP-00224/2016-17/1511, dated 13th January, 2017. He has accepted the proposal and affirmed that there is no Disciplinary Proceedings pending against him.

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8. As a consequence, once the process has been initiated, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from ~~01.04~~ ^{02.05} 2017 shall be applicable by prohibiting ^{MMS} institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
9. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the Petitioner immediately as specified.
10. That the Interim Resolution Professional shall perform the duties as assigned under Section 18 of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order on 21st July 2017 to this Bench.
11. The Petition is "**Admitted**" and disposed of on the terms directed hereinabove.

Date: 2nd May,2017.

Sd/-

**SHRI M.K. SHRAWAT
MEMBER (JUDICIAL)**