

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH  
C.P. NO.1023/I&BP/NCLT/MAH/2017  
Under Section 9 of IBC, 2016

In the matter of

Sandira D'Souza & Others ..... Petitioners

vs.

Elektrans Shipping Pvt Ltd .... Respondent.

Order delivered on 18.7.2017

Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)  
Hon'ble V. Nallasenapathy, Member (T)

For the Petitioners: Mr. D. B. Pereira and Ms. Rinika Jain, Advocates

For the Respondent: Mr. Shailendra Singh, Advocate.

*Per B. S. V. Prakash Kumar, Member (Judicial)*

**ORDER**

This is the Company Petition filed u/S 9 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor on the ground that this Corporate Debtor defaulted in making payment of their salaries, gratuity and other outstanding dues and interest on the salary amount. In view of it, these Petitioners sought initiation of Insolvency Resolution Process against the Corporate Debtor.

**Brief facts of the case:**

1. It is an admitted fact that these Petitioners were employees of the Corporate Debtor Company. The allegation of these Petitioners, i.e. Sandira D'souza, Nandini Veigas, Shashi D'Souza, Alphonsus Viegas is that an amount

aggregating to ₹1,22,89,228 plus interest @ 18% is due from the respective due dates.

2. These Petitioners have given computation of the full and final statement given by the Company in respect of the salaries of these four Petitioners. While going through the computation given by these Petitioners, it is observed that these Petitioners included gratuity alongwith the arrears of salary due from the Company, simultaneously these Petitioners have also mentioned that the Petitioners herein have proceeded against this Corporate Debtor Company for grant of gratuity before the 8<sup>th</sup> Labour Court, Bandra, Mumbai. Since the part of the claim mentioned in this Petition being disputed before the Labour Court by the Petitioners themselves, the dispute in respect of a claim is pre-existing before the court of law on the date of filing notice under Section 8, therefore, this claim against this Corporate Debtor will not lie before this Bench, henceforth, this Company Petition is hereby dismissed giving liberty to these Petitioners to proceed in accordance with law.

Sd/-

**V. NALLASENAPATHY**  
Member (Technical)

Sd/-

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