

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

6

T.C.P No. 325/(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 17.07.2017

NAME OF THE PARTIES: Abhyudaya Co- Operative Bank Ltd.
V/s.
SMS Texicabs Pvt. Ltd.

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

<u>S. No.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>SIGNATURE</u>
1	Narash S. Tripathi.	Practising Company Secretary	

ORDER

TCP No. 325/I&BP/NCLT/MB/MAH/2017

On the memo of withdrawal filed by the Petitioner's Counsel, this Petition
is **dismissed** as withdrawn.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH AT MUMBAI

INTERLOCUTORY APPLICATION NO. OF 2017

IN

COMPANY PETITION NO. CP 323 OF 2017

Citizen Credit Co-operative Bank Limited

.....Applicant/Original

Petitioner

Versus

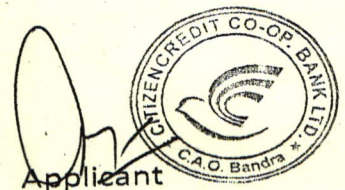
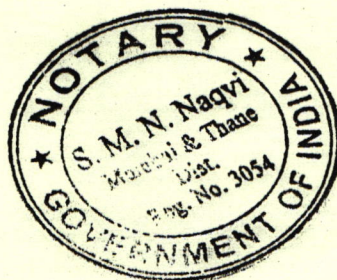
M/s. ESS Infraproject Private Limited

.....Respondent

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Advocates for the Applicant



Applicant

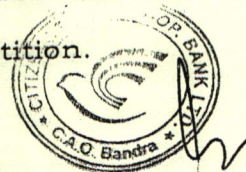
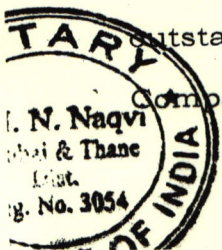
Limited incorporated under
Companies Act 1956 and having its
registered office at William
Compound, Mith Chowki, Malad –
West, Mumbai – 400064 [Corporate
Identification No.

U45200MH2002PTC137697]

.....Respondent

1. Jurisdiction of the Bench – The Applicant declares that the subject matter of the present Application as well as the Company Petition is within the jurisdiction of this Bench.
2. Limitation – The Applicant further declares that the Application is within limitation as contemplated in Companies Act, 2013 and Insolvency and Bankruptcy Code, 2016.
3. Facts of the case – The Applicant had rendered certain credit facilities to the Respondent on requisition of the latter. Since the Respondent failed to repay the debt thus owed by it to the Applicant, the Applicant preferred a Company Petition in the Hon'ble High Court of Bombay. While the Company Petition was pending in the Hon'ble Bombay High Court, there was brought about a change in the regime of insolvency laws in India. On account of this change in insolvency laws, the Company Petition preferred by the Applicant came to be transferred to this Tribunal.

During the pendency of the Company Petition, the Corporate Debtor has approached the Financial Creditor for an amicable settlement of the outstanding dues. Therefore the Applicant is not desirous to prosecute the Company Petition and prays for withdrawal of the Company Petition.



4. Relief sought – In view of substantial recovery of the financial debt by the Applicant, it is prayed in terms of this Application that the Company Petition be allowed to be withdrawn with liberty to apply in future for Corporate insolvency resolution, incase of settlement proposal does not materialize.

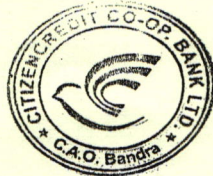
5. Particulars of the Bank Draft for payment of application fee –

Drawn on _____ in favour of the Pay and Accounts Officer, Ministry of Corporate Affairs at Mumbai for a sum of Rupees 1000/- (Rupees One Thousand only). It is dated ____ June, 2017 and bears number _____.

Date:

Place: Mumbai

Advocates for the Applicant



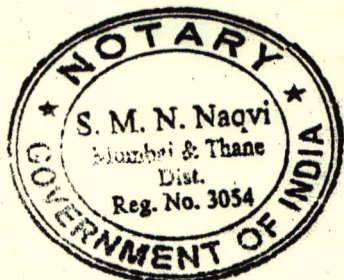
[Signature]
Applicant

[Signature]

PRS Legal, 115, Biryra House, 265,
Perin Nariman Street, Fort, Mumbai –
400 001; Phone – 022 2263 4828;
Email: prs.legal@yahoo.com

Mangesh Torvedi

17.7.17



भारतीय गैर न्यायिक

एक सौ रुपये

Rs. 100

रु. 100

ONE

HUNDRED RUPEES

भारत INDIA

INDIAN NON JUDICIAL

महाराष्ट्र MAHARASHTRA

2017

SG 783237

प्रधान मुद्रांक कार्यालय, मुंबई
प. मु. वि. क्र. ८००००२०
30 MAY 2017
सक्षम अधिकारी

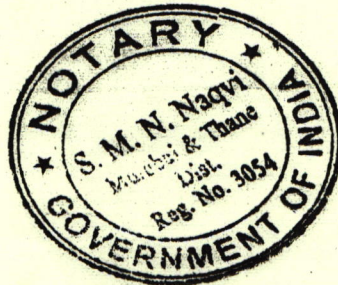
श्री. प्र. ना. चिंचघरे

This Stamp Paper forms part of Affidavit filed in
the matter of -

Citizen Credit Co-operative Bank Limited

Vs.

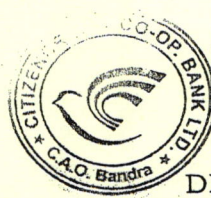
M/S ESS Infra Project Private Limited



VERIFICATION

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Verified at Mumbai on 10th day of June 2017 that the contents of my above Affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

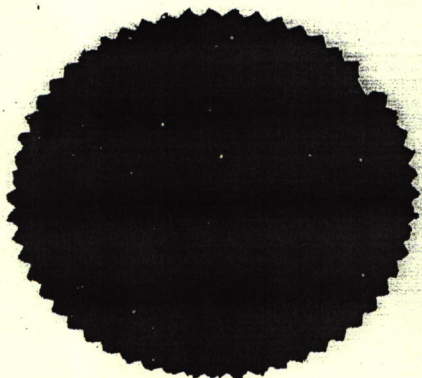


[Signature]
DEPONENT

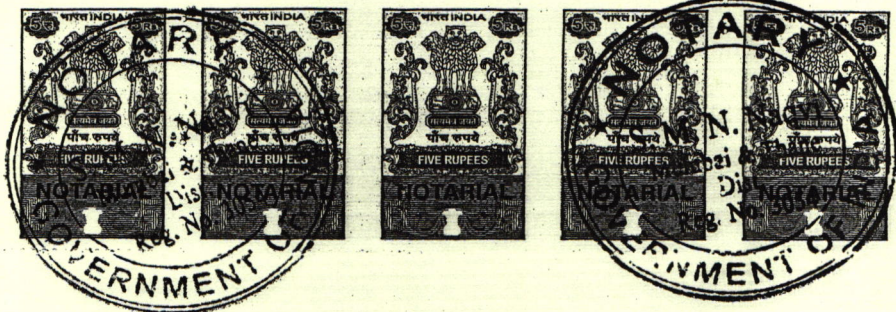
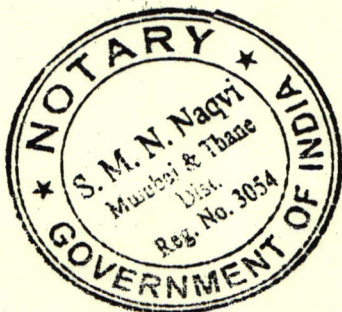
BEFORE ME

5 June
15 - 6 - 17

S. M. N. Naqvi
NOTARY
Government of India.
Mumbai & Thane Dist.



SR. No. 565 P. No. 30
NOTARY Register. 228 Date 10/6/17



Versus

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ESS Infracore Private Limited
incorporate under Companies Act,
1956 and having its registered office
at William Compound, Mith Chowki,
Malad - West, Mumbai - 400064
[Corporate Identification No.

U45200MH2002PTC137697]

.....Respondent

NOTICE OF MOTION

Date:

From: Citizen Credit Co-operative Bank Limited (Original
Petitioner/Financial Creditor)

To: The National Company Law Tribunal

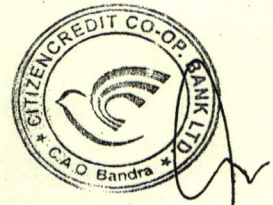
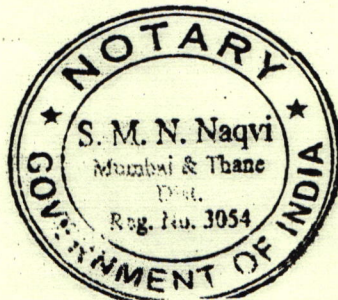
Concerning:

Name: ESS Infracore Private Limited

File No.: Company Petition No. CP 323 of 2017 (So numbered subsequent
to transfer from the Hon'ble Bombay High Court)

The Applicant above named requests that the Tribunal grant the following
relief -

A) Company Petition No. CP 323 of 2017 be permitted to be withdrawn
by the Applicant



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The humble prayer of the Applicant may be granted under Rule 8 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 and/or Rule 44 of National Company Law Tribunal Rules 2016 and/or such other provisions of Insolvency and Bankruptcy Code 2016 or Companies Act 2013 or such Rules made under the Code or the Act.

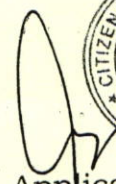
For the following reasons:

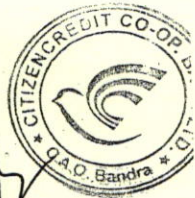
The Company Petition was preferred by the Applicant in the Hon'ble High Court of Bombay on the basis of inability of the Respondent to repay the debt owed by the Respondent to the Applicant. Due to change in the regime of insolvency laws in India, the Company Petition came to be transferred to this Tribunal.

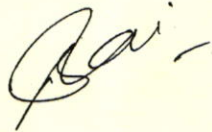
During the pendency of the Company Petition, the Corporate Debtor has approached the Financial Creditor for an amicable settlement of the outstanding dues. Therefore the Applicant is not desirous to prosecute the Company Petition and prays for withdrawal of the Company Petition.

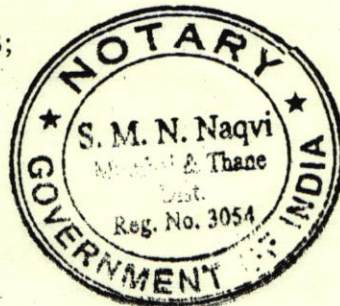
The Applicant has enclosed an affidavit in support of the present Application wherein relevant facts have been set out.

Advocates for the Applicant


Applicant




PRS Legal, 115, Birya House, 265,
Perin Nariman Street, Fort, Mumbai -
400 001; Phone - 022 2263 4828;
Email: prs.legal@yahoo.com



DEMAND DRAFT

मौज द्राफ्ट की शाखा क्रम सं. Br. Sr. No. of D.D. **500013093124**

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बी आई कोड
BI CODE

सिंडिकेट बैंक / Syndicate Bank
FORT, MUMBAI 400 001 (Maharashtra)

फोर्ट, मुंबई - 400 001 (महाराष्ट्र)

दूरभाष सं./Ph.No. **1001** से अधिक नहीं

Pay and account ministry of Corporate Affairs Mumbai

OR ORDER या उनके आदेश पर

RUPEES One Thousand only
रुपये

प्राप्त मूल्य के बदले अदा करें **₹ 1000/-**

FOR VALUE RECEIVED

कृते सिंडिकेट बैंक / For SYNDICATE BANK

सिंडिकेट बैंक / Syndicate Bank
CBS

Services for Mumbai
(अदाकर्ता शाखा / DRAWEE BRANCH)

वी.आई.कोड/BI Code **5003**

IFSC : SYNB0005000

प्राधिकृत हस्ताक्षरी / Authorised Signatory **2688**

प्राधिकृत हस्ताक्षरी / Authorised Signatory

जारी करने की तारीख से 3 महीने तक वैध
VALID FOR 3 MONTHS FROM DATE OF ISSUE

अभिकर्ता का नाम / REMITTER'S NAME **MDCL**

MANIPAL TECHNOLOGIES LTD. KARNATAKA /CTS - 2010
आवक/Intls.

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BEFORE THE NATIONAL COMPANY
LAW TRIBUNAL
BENCH AT MUMBAI
INTERLOCUTORY APPLICATION NO.
OF 2017
IN
COMPANY PETITION NO. CP 323
OF 2017

Citizen Credit Co-operative Bank
Limited ...Applicant/Original
Petitioner

Versus

M/s ESS Infraproject Private
Limited ... Respondent

Interlocutory Application

Dated day of June, 2017

PRS Legal
**Advocate for Applicant/
Original Petitioner**
115, Birya House,
265, Perin Nariman Street,
Fort, Mumbai-400 001
Phone: - 022-22634828
Email: - prs.legal@yahoo.com