

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 02/I & BP/NCLT/MAH/2017**

Coram: B. S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)

In the matter of under Section 8 and 9 of the Insolvency and Bankruptcy Code, 2016.

Between

M/s. Kirusa Software Pvt. Ltd.

... Applicant

V/s.

M/s. Mobilox Innovations Pvt. Ltd.

... Respondent

Applicants' Counsel: Mr. Ankit Lohia, Counsel, Mr. Yuvraj K. Singh Advocate.

Respondents' Counsel: Mr. Jawaharlal, Mr. Hardik Sanghavi, Advocates.

ORDER

(Heard & Pronounced on 27.01.2017)

The Petitioner company namely Kirusa Software Private Limited has filed this Operational Creditor Petition stating that the debtor Company is liable to pay ₹20,08,202 along with interest at the rate of 18% p.a., as the Corporate Debtor failed to repay the same, the petitioner, hence, filed this petition.

The petitioner says that the corporate Debtor had issued Purchase Orders (POs) to the petitioner/Operational Creditor to run "Nach Baliye" Dance Reality show Tele-voting campaign for Star TV (campaign), which were accepted by the petitioner. It has filed POs with this petition. In pursuance of the POs issued by the Debtor Company, the petitioner rendered services by devising a specific software application for this purpose of tele-voting through the toll-numbers from Telecom operators. Accordingly, the petitioner raised monthly invoices on the corporate debtor for the total number of minutes of usage generated by the campaign including other rental, as on date, the invoices raised by the petitioner on the corporate debtor for the services provided per the POs remain

outstanding and payable by the corporate debtor to the petitioner as detailed in paragraph 2 of Part IV of the petition. Hence the debtor company is liable to make payment to the petitioner, toll free numbers rentals and the Primary Rate Interface Rental as raised by the Telecom Operators.

As the Tele Voting was conducted successfully, the petitioner, as mentioned above, raised invoices against the services rendered, therefore the corporate debt is payable by the Corporate Debtor as per the invoices raised by the petitioner on the Corporate Debtor during the period between May 13 to 23rd December 2016.

When this Bench has directed the petitioner to furnish the requisite documents as described u/s.9 of the Insolvency & Bankruptcy Code, the Petitioner filed the Notice of dispute raised by the Corporate Debtor disclosing the Corporate Debtor disputing the claim made by the Petitioner.

Though the petitioner filed all the invoices raised on the Debtor Company aggregating debt to ₹20,08,202, details of transaction on account of which debt fell due, default thereof and demand notice served upon the Debtor, for this Bench having noticed that notice of dispute raised by Respondent side has not been annexed to the CP, this Bench hereby directed to furnish the documents as prescribed u/s. 9 of the I&BP Code. In compliance of it, the Petitioner filed the notice of dispute issued by the Corporate Debtor disclosing the corporate debtor disputing the claim made by the Petitioner. On perusal of this sub-section (5) of Section 9 of this Code, it is evident that notice of dispute has been received by the Operational Creditor.

On perusal of this notice dated 27.12.2016 disputing the debt allegedly owed to the petitioner, this Bench, looking at the Corporate Debtor disputing the claim raised by the Petitioner in this CP, hereby holds that the default payment being disputed by the Corporate Debtor, for the

petitioner has admitted that the notice of dispute dated 27th December 2016 has been received by the operational creditor, the claim made by the Petitioner is hit by Section (9) (5) (ii) (d) of The Insolvency and Bankruptcy Code, hence this Petition is hereby rejected.

Sd/-

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

Sd/-

V. NALLASENAPATHY
Member (Technical)