

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

CP (IB) NO. 29/Chd/Hry/2017

In the matter of:

C P and Associates Pvt. Ltd. ... Operational Creditor

Versus

Innovative Buildestates Pvt. Ltd. ... Corporate Debtor

Present: Mr. Arun Saxena and Mr. Praveen Gupta,
 Advocates for operational creditor.

This petition is under Section 9 of the Insolvency and Bankruptcy Code, 2016 in Form No.5 as prescribed in Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Learned counsel for the petitioner, *inter alia* contends that the respondent-Corporate Debtor was sent the Demand Notice (Annexure II) by Speed Post as well as on the email address available in the master data of the company uploaded on the portal of Ministry of Corporate Affairs. That master data is at page 43 of the Paper Book.

Having heard the learned counsel for the petitioner, following defects are noticed: -

- (i) The petitioner would file affidavit along with the envelop which is stated to have been returned. The affidavit would also state that email was delivered to the Corporate Debtor at the address mentioned in the master data.



- (ii) The affidavits filed in support of the application and another affidavit stating therein that the petitioner has neither received the payment nor any notice of dispute from the Corporate Debtor are not in the prescribed proforma. Both these affidavits have to be filed afresh.
- (iii) The petitioner shall also file affidavit stating therein that the petition was served upon the respondent by giving the details that the copy of the petition along with the Paper Book was sent at the registered office but the same was returned along with report of the postal authority. The affidavit shall contain the statement to this effect along with the envelope which was returned and the Track Report of Postal Department.

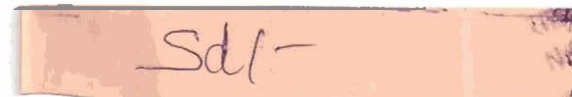
Notice of these defects to the petitioner and learned counsel for petitioner, has accepted the notice of these defects. The same are required to be removed within seven days' mandatory period.

Written communication of Interim Resolution Professional in Form No.2 seems to be proper. The petitioner has also attached certificate from the ICICI Bank dated 04.04.2017 to the effect that no payment has been received in the account of the petitioner from the respondent after 02.07.2014 in order to comply with the requirement of Section 9(3)(c) of the 'Code'. Learned counsel for petitioner further refers to order passed by this Tribunal in CP IB No.20/Chd/Hry/2017 (Annexure



X) contending that the petition filed earlier was dismissed as withdrawn with liberty to file fresh petition on the same cause of action.

Notice of this petition to the respondent-Corporate Debtor as to why this petition be not admitted. It be directed in the notice that reply/objection, if any, to this petition be filed at least a day before the date fixed with copy advance to the counsel opposite. List the matter on 02.08.2017. The petitioner is directed to collect the notice from the Registry and send it to the respondent along with the entire Paper Book by Speed Post forthwith as well as 'Dasti' and file affidavit of compliance at least one day before the next date along with the postal receipt and track report of the postal authorities. Copy of the order be supplied to the counsel for the petitioner.



(Justice R.P. Nagrath)
Member (Judicial)

July 20, 2017
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