

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

CP (IB) No.47/Chd/Hry/2017

In the matter of:

The Hongkong & Shanghai Banking Corporation Ltd.

....Petitioner.

Versus.

M/s Leeway Logistics Limited.

....Respondent.

Present: Ms.Neeru Bansal, Advocate for petitioner.

This petition has been filed under Section 7 of Insolvency & Bankruptcy Code, 2016 by the Financial Creditor in Form No.1 prescribed as per rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016. A loan of ₹15 crores was sanctioned to the respondent and the documents of loan are stated to be at pages 134 to 206 of the paper book. The loan documents were executed by Mr.Sanjay Sinha, the Managing Director of the respondent, who was authorised vide Board resolution of the respondent company dated 17.04.2014. It is contended that the respondent committed the default and the recall notice was sent to the Corporate Debtor vide letter dated 06.06.2016 at page 251 of the paper book. The learned counsel has referred to the admission of the default committed by the respondent (at page 215 of the paper book) who issued fifteen cheques. The learned counsel, inter-alia, contends that out of these fifteen cheques, five cheques were encashed, but

Neeru Bansal

rest of the cheques bounced. Copies of these cheques are at pages 217 to 226.

The petitioner even sent notices to the respondent and other Directors under Section 138 of Negotiable Instruments Act for dishonour of the cheques. The said notices are stated to be of dated 09.05.2016. The learned counsel for petitioner refers to the affidavit dated 31.05.2017 of Mr.Om Parkash Sharma working in the office of Ms.Sushmita Banerjee Associates, Advocates of the petitioner. The affidavit is at Annexure A-14, with which the postal receipt dated 31.05.2017 is attached. The affidavit states that the copy of this petition along with annexures was sent to the respondent Corporate Debtor by speed post and as per the track report, the same was delivered.

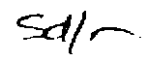
After hearing the learned counsel for the petitioner, the following defects are noticed:

- i) The written communication in Form No.2 of the Rules as Annexure A-9 is furnished by Mr.Atanu Mukherjee, proposed Interim Resolution Professional, but the learned counsel submits that this certificate expired on 28.06.2017, therefore, fresh communication in Form No.2 for proposing the Interim Resolution Professional has to be filed with complete particulars.
- (ii) The copy of the statement of account at Annexure A-8 has not been certified under the Bankers Books Evidence Act. The fresh statement with the aforesaid certificate is to be filed.


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Notice of these defects to the petitioner. Learned counsel for the petitioner has accepted notice of these defects. Let these defects be removed within seven days.

Notice of this petition be issued to the respondent for 07.08.2017 to show cause as to why this petition be not admitted. The petitioner shall collect the notice from the Registry and send the same by speed post as well as at the email address furnished by the respondent-Corporate Debtor as per the master data available from the MCA Portal. Notice be sent along with the copy of petition forthwith. The petitioner shall file an affidavit of compliance along with the original postal receipt and the track report. The petitioner shall also attach the track report of the previous despatch of the notice by registered post, which was stated to have been delivered to the respondent-Corporate Debtor. The compliance be made at least a day before the date fixed in the Registry. The learned counsel shall also have the complete instructions with regard to the criminal complaints filed under Section 138 of the Negotiable Instruments Act.



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

 July 25, 2017
Ashwani