

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

CP (IB) No.28/Chd/Pb/2017

In the matter of

M/s Sanjay Agro Industries Ltd.

.....Applicant / Operational Creditor

Versus

M/s Bhambri Steels Pvt. Ltd.

..Corporate Debtor

Present:: Mr. Rajansh Thukral, with Ms.Surekha Thukral, Advocates
for the Applicant / Petitioner
None for the Respondent / Corporate Debtor.

This petition has been filed for initiating Corporate Insolvency Resolution Process by the Operational Creditor against the Corporate Debtor. Learned counsel for petitioner inter alia contends that the application has been filed in the prescribed Form 5 as per Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Learned counsel further submits that against Sr.No.2 of Part IV of the application, the date of default is required to be mentioned. The answer is contained against Sr.No.1 of Part IV of the application that the date of default in respect of various transactions is on expiry of 7days from the dates of invoices.

Learned counsel further submits that with the Demand Notice (Annexure P5) copies of all the invoices were also sent to the Corporate Debtor. In support of this contention, the learned counsel referred to the affidavit of Mr.Ashwani Kumar, Authorised Representative of the Operational

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Creditor that the Demand Notice dated 08.04.2017 was despatched on 10.04.2017 but the same was returned by the postal authorities with the report that 'addressee refused to take delivery'. The envelope containing the report and the notice along with the Paper Book sent along with the notice is at Annexure P-20. Learned counsel for petitioner further submits that scanned copies of all the invoices were also sent by email with attachments of 13MB and for this Annexure P-21 is relied upon.

Learned counsel further submits that this petition along with entire Paper Book was despatched to the Respondent-Corporate Debtor as well as to the Managing Director of the Corporate Debtor for which the postal receipts are at Page 334 of the Paper Book. The petitioner is required to file affidavit in this regard with the track report or certificate of the Postal Department in token of delivery of the article. The matter is adjourned to 01.06.2017 for hearing. The affidavit be filed by that date.

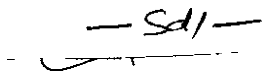
In view of the principle of law laid down by the Hon'ble National Company Law Appellate Tribunal in ***Company Appeal (AT) (Insolvency) No.1 & 2 of 2017 M/s Innoventive Industries Ltd Vs ICICI Bank & Anr*** decided on 15.05.2017 the Adjudicating Authority is required to issue notice of the petition to the Respondent-Corporate Debtor. So the notice of motion be issued to the Respondent-Corporate Debtor along with copy of the petition to show cause as to why the petition be not admitted and for ascertaining the default and as to whether there is any dispute. The petitioner would send the notice by Registered Post by collecting the notice from the Registry today itself and would also file affidavit of service along with postal receipt in token of

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despatch. One set of the notice with the attachments be also sent at the email address of the respondent.

Learned counsel for the petitioner would also make submissions as to whether the Balance Sheets of the Corporate Debtor, copy of which has been placed on record, would be in the nature of acknowledgement of debt in writing signed by the Operational Creditor for the purposes of starting fresh period of limitation.

List the matter on 01.06.2017 for hearing.


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

May 26, 2017
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