

**In the National Company Law Tribunal  
Single Bench, Chennai**

**TCP/198/(IB)/CB/2017**

Under Section 9 of the IBC, 2016

**In the matter of**

Bharat Kumar Dugar

V/s

Malabar Hotels Private Limited

Order delivered on: 16.08.2017

For the Petitioner/OC: Shri K. Ramasamy, Advocate

**Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

**ORDER**

1. Under Consideration is a Company Petition filed by Bharat Kumar Dugar (in short, '**Petitioner/Operational Creditor**') against Malabar Hotels Private Limited (in short, '**Respondent/Corporate Debtor**') under section 433 (e) and (f), 434 (i) (a) and 439 (i) (b) of the Companies Act, 1956 before the Hon'ble Madras High Court which has been transferred to this tribunal pursuant to the Companies (Transfer of Pending Proceedings) Rules, 2016. Now, pursuant to the Central Government notification number GSR 119(E) dated 07.12.2017, this petition needs determination as per the provisions of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**').

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. Shri K. Ramasamy, the learned counsel appearing on behalf of the petitioner/OC submitted that the Petitioner is engaged in the business of Finance whereas the Respondent/CD is a company engaged in the business of hotel, resort, restaurant, lodge, health clubs etc. In the ordinary course of business, the petitioner/OC from time to time, provided the loan to the tune of Rs. 1,78,50,000/- to the respondent which will be payable on demand and the Respondent company agreed to pay the interest @ 18% per annum.
4. It is further submitted that the petitioner, after making several requests to settle his dues and having waited for a long period of time for his legitimate dues, issued a statutory notice dated 30.11.2015 under section 434 of the Companies Act, 1956, calling upon the respondent to make the payment of the principal amount of Rs. 1,78,50,000/- along with 18% interest per annum of Rs. 15,70,000/- and thus now claimed to be an Operational Creditor under the provisions of the IB Code 2016 and prayed to initiate Corporate Insolvency Resolution Process against the Respondent/CD.

5. It is pertinent to mention herein that the respondent company neither filed any counter before the Hon'ble Madras High Court nor caused appearance before this adjudicating authority even after receiving notice for appearance. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016.
6. As per the submission of the counsel for the petitioner, the Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016 as well as MCA Notification dated 29.06.2017.
7. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating authority is satisfied that the petitioner has made out his case by establishing that this Corporate Debtor has defaulted the payment dues on various occasions to this petitioner/OC and there is no existing dispute between the parties. Also, the respondent neither replied to the statutory notice dated nor caused appearance before this Adjudicating authority despite of notice for appearance. In the circumstances, I am inclined to admit the instant application.
8. Therefore, the instant petition is admitted and I order the commencement of the Corporate Insolvency Resolution

Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

9. I appoint Mr. Venkataramanrao Nagrajan as Interim Resolution Professional (**IRP**) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

10. I declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, namely :

*(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*



- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

**11.**The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

**12.**The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.

13. The Petitioner/OC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
14. The Registry is also directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
15. The address details of the IRP are as follows: -

Mr. Venkataramanarao Nagrajan  
Regn No:(IBBI/IPA-002/IP-N00055/2016-2017/10107)  
New no. 29, Kavarai street,  
West mambalam, Chennai – 600033  
Email: csnagrajan@gmail.com  
Mobile No: 9940111058

  
**K. ANANTHA PADMANABHA SWAMY**  
**Member (J)**

RLS