

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 105/9/HDB/2017

U/S 9 of IBC 2016

R/w Rule 6 of I&B

(Application to Adjudicating Authority) Rules, 2016

**In the matter of**

1. Mr. AN Keskar  
S/o Late Bhaskar Keskar  
305, Park View Apartments  
1-9-699, Vidya Nagar  
Hyderabad, Telangana
2. Mrs. Sangeeta Keskar  
W/o Mr. A.N. Keskar  
305, Park View Apartments  
1-9-699, Vidya Nagar  
Hyderabad, Telangana

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...Petitioners/  
Operational Creditors

V/S

- 1.) M/S Aliens Developers (P) Ltd:  
Rep. by its Managing Director & Joint Managing Director;  
Mr. Hari Challa s/o Mr. CVR Chowdhary &  
Mr.C.Venkat Prasanna Challa s/o Mr. CVR Chowdhary:  
respectively  
O/o. Flat No.910, Teja Block, My Home Navdeepa Apartments;  
Madhapur: Near Hitech City; Hyderabad-500081
- 2.) Hari Challa s/o Mr. CVR Chowdhary  
Managing Director M/S Aliens Developers (P) Ltd  
O/o. Flat No.910, Teja Block, My Home Navdeepa  
Apartments; Madhapur: Near Hitech City;  
Hyderabad-500081.
- 3) Mr.C.Venkat Prasanna Challa s/o Mr. CVR Chowdhary:  
Joint Managing Director M/S Aliens Developers (P) Ltd;  
O/o. Flat No.910, Teja Block, My Home Navdeepa Apartments;  
Madhapur: Near Hitech City;  
Hyderabad-500081  
& 02 others

.....Respondents/  
Corporate Debtors



Date of order: 22.08.2017

**CORAM:**

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

**Parties/ Counsels present**

For the Petitioner/ Operational Creditors: Mr. V. Appa Rao  
Mr. P.V. Rama Rao,  
Mr. Jayakar  
Advocates,

For the Respondent/ Corporate Debtors: Mr. P. Raja Sripathi  
Rao, Mr. B.Dileep  
Kumar, Mr. M.  
Amarender Reddy,  
Advocates

Per: Rajeswara Rao Vittanala, Member (J)



**ORDER**

1. The present Company Petition bearing CP (IB) No. 105/9/HDB/2017 is filed by AN Keskar, and another Petitioners/ Operational Creditors, U/s 9 of IBC 2016 R/w Rule 6 of I&B.(Application to Adjudicating Authority) Rules, 2016 by seeking to initiate Corporate Insolvency Resolution Process, against M/S Aliens Developers (P) Ltd, under the Provisions of IBC 2016.
2. The brief facts, as mentioned in the Company petition, which are relevant to the issue in question, are as follows:

- 1) It is stated that that operational Creditors Purchased a flat bearing No. 509 from the Corporate Debtor vide agreement of sale dated 30.07.2009, and paid

an amount of Rs. 17,96,474/- . However, when the Corporate Debtor failed to construct the flat by due date, the Operational Creditors has filed CC No.5 of 2015 on the file of Telangana State Consumer Disputes Redressal Commission Hyderabad. The same was allowed by common order dated 02.03.2017 directing the Corporate Debtor to pay an amount of Rs.17,96,474/- with interest @ 12% wef 11.07.2009 plus compensation of Rs. 1,00,000/ plus costs of Rs. 5000/- and granted 4 weeks time to comply with the order. The Corporate Debtor failed to comply with this order though it became final and total amount due is Rs.35,53,474/- as on 02.04.2017.



- 2) When the Corporate Debtor failed to pay the debt of Rs. 35,53,474/- by 02.04.2017, the Operational Creditor issued demand notice in form No.3 on 13.04.2017 demanding the Operational Creditor to pay Rs. 35,53,474/- and the same was served on the Corporate Debtor on 25.04.2017. However, the Corporate Debtor vide their reply dated 01.05.2017 stated that they would challenge the order dated 02.03.2017 in the higher forums.
  - 3) In the above circumstances, the petitioner has filed the present petition by seeking action to initiate CIRP under IBC, 2016.
3. I have heard Sri V.Appa Rao, for the petitioner, and Sri P.Raja Sripathi Rao, learned counsel for the respondent, and have also carefully gone through the pleadings of both the parties.



4. The case was listed for admission on 19.07.2017, and it was subsequently adjourned to 25.07.17, 28.07.17, 7.08.17 and 08.08.17. The case adjourned at the request of parties on one reason or the other. The Learned counsel for the respondent also requested time to resolve the issue amicably. Though, a counter affidavit dated 5<sup>th</sup> August, 2017 is filed on behalf of the Corporate Debtors by opposing the Petition, subsequently, the Corporate Debtor has filed a memo of settlement, which was received by the Registry on 10<sup>th</sup> August, 2017 and the same is taken on record.



5. Shri P. Raja Sripathi Rao , learned counsel for Respondent/Operational Debtors has filed the said memo dated: 10/08/2017 , which reads as under:

“The Corporate Debtor herein, in response to the instant Petition filed by the Operational Creditor had entered into a settlement with them and accordingly had agreed to pay a Sum of Rs. 35,18,005 /- towards full and final settlement of the claim of the Operational Creditors. Accordingly, Corporate Debtors herein had Issued DD (demand Draft No. 003248 dated 7.8.17 and 003257 dated 9.08.17 for Rs. 10,00,000/- and 3,00,000/- respectively and post-dated Cheques 036954 dated 09-09-2017 an amount of Rs 22,18,005/- to the Operational creditor and the said DD's and cheques are received by the Operational Creditors towards full and final settlement of their claims either for the past, present or in future.”

6. Shri V. Appa Rao, learned counsel for Petitioner/ Operational Creditors, while accepting the settlement as per the said memo dated 10/08/2017 as full and final settlement of the claim of the petitioners, has further submitted that he may be permitted to withdraw the present Company Petition, however, subject to honouring post

dated cheque No. 036954 dated 09-09-2017 for an amount of Rs.22,18,005/-.

7. In view of the above facts and circumstances of the case, I am of the considered view that Petitioner/ Operational Creditors can be permitted to withdraw Company petition. Hence the Company Petition bearing CP (IB) No.105/9/HDB/2017 is disposed off as withdrawn, by directing the Corporate Debtor to honour Post dated Cheques as mentioned in the memo, as extracted above. No order as to costs.



*Sd/-*  
Rajeshwara Rao Vittanala  
Member, (Judicial)

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*V. Annapoorna*  
V. ANNAPOORNA  
Asst. DIRECTOR  
NCLT, HYDERABAD.

प्रमाणित प्रति  
CERTIFIED TRUE COPY  
केस संख्या  
CASE NUMBER. *CP(IB) No. 105/9/HDB/20*  
निर्णय का तारीख  
DATE OF JUDGEMENT. *22/8/2017*  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON. *29/8/2017*