

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

CP (IB) No. 220/7/HDB/2017

U/s 7 of the IBC, 2016
R/w rule-4 of the I&B (AAA) Rules, 2016

In the matter of:

1. Tilak Raj Panjabi
Flat E-502, Block-E, Ramky Towers
Gachibowli, Serilingampally
Rangareddy, Hyderabad
Telangana - 500032

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OF THE ORIGINAL

2. Dhimant Shah
B-1, 502, Shehnai Residency
A.B. Road, Indore
Madhya Pradesh - 452001

... Petitioners/
Financial Creditors

Versus

Syberplace E Solutions Private Limited
DG4-05/03, Raintree Park
JNTU-Hitec City Spinal Road
Hyderabad, Telangana-500085

... Respondent /
Corporate Debtor

Date of order: 10.11.2017

CORAM:

Hon'ble Mr. Rajeswara Rao Vittalana, Member (Judicial)
Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Parties/Counsels Present:

For the Operational Creditor: Shri D. Narendar Naik along with
Ms. Mytri Indukuru, Advocates

Per: Rajeswara Rao Vittalana, Member (Judicial)



ORDER

1. The present Company Petition bearing CP (IB)/220/7/HDB/2017, is filed by Mr. Tilak Raj Panjabi and another (Petitioners/Financial Creditors) under Section 7 of Insolvency and Bankruptcy Code, 2016 R/w Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules 2016, by seeking to initiate Corporate Insolvency Resolution Process (CIRP) in the matter of Syberplace E Solutions Private Limited (Respondent / Corporate Debtor).
2. The brief facts, leading to filing of present CP, are as follows:-
 - (a) Syberplace E Solutions Private Limited (Corporate Debtor) approached Mr. Tilak Raj Panjabi & another (Financial Creditors) in the year 2014 and requested funds by way of unsecured loans from the Financial Creditors with a promise to pay monthly interest @ 24% per annum on the said unsecured loans. Accordingly, Financial Creditor No.1 has provided two unsecured loans of Rs. 5 lakhs each to the Corporate Debtor on 16.04.2014 and 28.01.2016. The Financial Creditor No.2 also provided unsecured loan of Rs. 10 lakhs on 22.02.2014.
 - (b) In pursuant to the above two unsecured loans of Rs. 5 lakhs each made by the Financial Creditor No.1, the Corporate Debtor made interest payable @ 24% only on the first loan of Rs. 5 lakhs up to the month of April, 2016. However, no interest was paid on the second loan of Rs. 5 lakhs till date. The Corporate Debtor had even deducted tax at source and even issued the tax deduction certificates in Form 26AS to the Financial Creditor No.1.
 - (c) So far as the loan made by the Financial Creditor No.2 is concerned, the Corporate Debtor made interest payment @ 24% up to May, 2016. In this case also, the



Corporate Debtor had deducted tax at source and issued tax deducted certificates in Form No 26AS in the name of the wife of Financial Creditor No.2

- (d) Having failed to pay its debts, the Financial Creditor No.1 issued a letter dated 19.11.2016 demanding repayment of the Principal amount of Rs. 10 lakhs together with agreed interest. The Financial creditor No.2 also issued another letter dated 12.06.2017 and an e-mail dated 13.06.2017 demanding repayment of the principal amount of Rs. 10 lakhs together with interest. The total outstanding amount from the Corporate Debtor is Rs. 26,22,330/-including interest as on 31.07.2017.
- (e) The Petitioner also issued a letter dated 19.11.2016 in this regard and when the Respondent failed to pay the debt, the present petition is filed.



3. Heard Shri D. Narendar Naik, Learned Counsel for the Petitioner.
4. The case was listed for admission on various dates viz, 04.10.2017, 10.10.2017, 18.10.2017, 07.11.2017 and today and the case was adjourned at the request of the Learned Counsel for the Petitioner to comply with the objections and seek instructions from this client.
5. The Learned Counsel for the Petitioner has filed a memo dated 10.11.2017 which is taken on record, by stating as follows:-

“When we went to personally serve the notice on the Corporate Debtor at its registered office address, we came to know that there is another company operating out of the said premises and Syberplace E Solutions Private Limited has closed its operations since a long time. The Directors are also not present in the addresses available with the Financial Creditors.

Being left with no alternative, the Financial Creditors seek permission of this Hon'ble Tribunal to withdraw the above Company Petition with liberty to approach this Hon'ble Tribunal by way of a fresh Company

Petition when the Financial Creditors are able to identify and locate the whereabouts of the Corporate Debtor.

It is also humbly prayed that this Hon'ble Tribunal may direct the Registrar of Companies, Hyderabad to initiate appropriate proceedings against the Corporate Debtor".



In view of the above, the Learned Counsel for the Petitioner therefore request to permit him to withdraw the present Company Petition, with a liberty to file fresh Company Petition and also submit that he would seek remedy from Registrar of Companies (RoC).

6. In view of the above facts and circumstances of the case, we disposed of the present Company Petition bearing CP (IB) No. 220/7/2017 as withdrawn, by granting liberty to the Petitioner to approach the Registrar of Companies for seeking appropriate remedy and also granted liberty to the Petitioner to file a fresh Company Petition in accordance with law. No order as to costs.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
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केस संख्या
CASE NUMBER *CP(1B) No. 220/7/2017*
निर्णय का तारीख
DATE OF JUDGEMENT *10.11.2017*
प्रति तैयार किया गया तारीख
COPY MADE READY ON *14.11.2017*