

IN THE NATIONAL COMPANY LAW TRIBUNAL HYDERABAD
BENCH, HYDERABAD

CP (IB) No.176/9/HDB/2017
U/s 9 of IBC, 2016 R/w Rule 6 of I&B
(AAA) Rules, 2016

In the matter of:

Flight Raja Travels Private Limited
Magnolia, Block B, Level 4,
Manyata Embassy Business Park,
Bangalore, Karnataka - 560 045

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

...Petitioner/
Operational Creditor

Versus

Air Costa Aviation Private Limited
8-2-686/49/D/21/1,
Road No.12, Rc Layout, Banjara Hills,
Hyderabad TG- 500033

...Respondent/
Corporate Debtor

Date of order: 16.11.2017



CORAM

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

Parties / Counsels Present

For the Applicant/Operational Creditor: Mr.Mukesh Yadav
Advocate

For the Respondent

: Mr.Abhijeet Talwar,
Advocates

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petition bearing No. CP(IB) No.176/9/HDB/2017 is filed by Flight Raja Travels Private Limited (Petitioner/Operational Creditor), under section 9 of Insolvency and Bankruptcy Code,

2016 r/w Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by seeking initiate Corporate Insolvency Resolution Process in respect of Air Costa Aviation Private Limited (Respondent/Corporate Debtor).

2. Brief facts, as mentioned in the present company petition, are as follows:-

- i. Flight Raja Travels Private Limited (Petitioner/Operational Creditor) was incorporated under the erstwhile Companies Act, 1956 (now Companies Act, 2013) and having its registered office at Magnolia, Block B, Level 4, Manyata Embassy, Business Park, Outer Ring Road, Nagawara, Bangalore-560045. The main objects of the company is briefly are: flights, bus, rail, hotels, holidays, etc.
- ii. Air Costa Aviation Private Limited (Respondent/Corporate Debtor) was incorporated on 26.04.2011 and the Nominal Share Capital is Rs.50,00,00,000/- and paid-up share capital is Rs.24,92,55,210/-.
- iii. It is stated that the Petitioner/Operational Creditor registered online as an agent of Corporate Debtor, and made an initial deposit in the form of rolling advance of Rs.1,00,000/- with the Corporate Debtor, against the agent ID BLRLB0088, which was used for uploading the funds and utilizing the same for bookings.
- iv. It is stated that the Petitioner have been doing business with the Corporate Debtor, on such Agent Model and have successfully completed the booking targets for which they are entitled to



receive a balance due amount of Rs.9,247,445.00 in their agent ID as on 20.03.2017.

- v. Further stated that the Corporate Debtor had suspended operations on 28.02.2017 until further notice due to financial difficulties regarding the lease of aircraft.
- vi. It is stated that the petitioner rendered services to the Corporate Debtor, to their complete satisfaction as per their requirements. In spite of availing the said services, the Corporate Debtor have failed to pay the sum total of Rs.1,48,00,319.00 to the Petitioner. The Petitioner had requested Corporate Debtor several times, both orally and in writing, to clear the outstanding amount of Rs.1,48,00,319.00 which is due to the Petitioner from Corporate Debtor, after the airline suspended operations.
- vii. In these circumstances, the Petitioner is entitled to recover total outstanding amount of Rs.1,48,00,319.00 from the Corporate Debtor as per the below details:
 - a) Rs.9,247,445.00, which is the balance in our agent ID;
 - b) Rs.1,016,103.00 as Q3 PLB receivable;
 - c) Rs.7,65,069.00 as Q4 PLB receivable;
 - d) Rs.3,04,957.00 as an amount which has not yet been credited to the agent ID;
 - e) Rs.10,25,412.00 as an outstanding TDS amount;
 - f) Rs.24,41,333.00 an un-flow amount.
- viii. In the above circumstances, the Operational Creditor issued the statutory demand notice dated 5th April, 2017 to the Corporate Debtor under the provisions of the Insolvency and Bankruptcy Code,



2016. In spite of the said demand notice, the Corporate Debtor failed to pay the dues of the Operational Creditor and did not respond to the said notice.

ix. Since the Corporate Debtor failed to pay the outstanding amount, they filed this petition seeking CIRP.

3. The case was listed for admission on 31.08.2017, 07.09.2017, 11.09.2017, 15.09.2017, 21.09.2017, 27.09.2017, 10.10.2017, 23.10.2017, 27.10.2017, 03.11.2017 & 16.11.2017. The matter was adjourned on the above dates at the request of the parties.

4. Mr. Mukesh Yadav, learned counsel for the Petitioner/Operational Creditor has filed a memo dated 16.11.2017 by stating as follows, the memo is taken on record:



1. *In the present matter, the Respondent has submitted by affidavit that the airline business of "Air Costa" is not being undertaken by the Respondent and further submitted that such business is being undertaken by M/s LEPL Projects Limited.*
2. *In view of the above background, it is submitted that the present debt pertains to the airline business being run in the name of "Air Costa" and therefore the Applicant wants to withdraw the present application against the Respondent.*
3. *It is, therefore, prayed that the above mentioned application may kindly be dismissed as withdrawn in the interest of justice with the liberty to file the fresh complaint on the present dispute or subject matter.*

Therefore the learned counsel submit that he may be permitted to withdraw the above Company Petition with liberty to file a fresh Company Petition for the same cause of action.



6. In view of the above facts and circumstances of the case, submissions made by the learned counsel for the Petitioner/Operation Creditor and memo dated 16.11.2017, we disposed of the Company Petition bearing CP (IB)/176/9/HDB/2017 as withdrawn, by granting liberty to the petitioner to file a fresh Petition in accordance with law. No order as to costs.

Sd/-

RAVIKUMAR DURASAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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OF THE ORIGINAL


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

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP(1B) No. 176/9/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 16.11.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 27.11.2017