

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

C.P (IB).No.203/9/HDB/2017
U/s 9 of the IBC, 2016 R/w
Rule 6 (1) of the I&B (AAA) Rules, 2016

In the matter of:

1. Ch.Vinay Kumar Reddy,
S/o.Mr.Ch.Srinivasa Reddy,
Aged about 38 years,
2. Mrs.I.Raja Sri,
W/o.Mr.Ch.CK Reddy, about 36 years,

Both are R/o.H.No.2-6-319/1, Gokul Nagar,
Hanamkonda, Warangal District.

...Petitioners/Operational Creditors

Versus

1. M/s. Aliens Developers Pvt. Ltd.,
Rep. by its MD & JMD Mr.Hari Challa, s/o. Mr.CVR
Chowdhary, & Mr.C.Venkat Prasanna Challa,
Mr.Venkata Prasanna Challa, S/o.Mr.CVR Chowdhary,
O/o.Flat No. 910, Teja Block, My Home Navadeepa
Apartments, Madhapur, Near Hitech City,
Hyderabad-500 081.
2. Mr.Hari Challa, S/o. Mr.CVR Chowdary,
Managing Director, M/s. Aliens Developers (P) Ltd.,
O/o.Flat No. 910, Teja Block, My Home Navadeepa
Apartments, Madhapur, Near Hitech City,
Hyderabad-500 081.
3. Mr.C.Venkat Prasanna, S/o.Mr.CVR Chowdary,
Joint Managing Director M/s. Aliens Developers (P)
Ltd., O/o.Flat No. 910, Teja Block, My Home
Navadeepa Apartments, Madhapur, Near Hitech City,
Hyderabad-500 081

... Respondents/Corporate Debtors

(present addresses of parties Sl.No.1 to 3 are at Aliens
Space Station, Tellapur Post, Ramachandrapuram
Mandal Medak Dist; Hyderabad - 502032).

Date of order: 21.12.2017



CORAM:

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

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties/ Counsels present

For the Petitioners: Mr. V. Appa Rao, Advocate

For the Respondents: Mr. P.Raja Sripathi Rao, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present company petition bearing CP (IB) No. 203/9/HDB/2017 is filed Mr. Ch.Vinay Kumar Reddy & Other, Petitioners/ Operational Creditors, U/s 9 of IBC 2016 R/w Rule 6(1) of I&B (Application to Adjudicating Authority) Rules, 2016 by seeking to initiate Corporate Insolvency Resolution Process, against M/S Aliens Developers (P) Ltd and 02 others 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:
 - (a) The Operational Creditors have Purchased a residential flat No.1551 on 15th Floor from Corporate Debtor in the year 2010 vide agreement of sale dated 18.07.2010 and paid an amount of Rs.24,57,790/-. However, the corporate debtor failed to construct the flat by due date and thereby Operational Creditor have filed Complaint Case No. CC/195/2015 on the file of State Consumer Disputes Redressal Forum, Telangana at Hyderabad. The same was allowed by an order dated 07.04.2017 by directing the Corporate Debtor to pay back the amount of



Rs.24,57,790/- + interest @12% p.a w.e.f 28.08.2010 plus compensation of Rs.1,00,000/- plus costs of Rs.5,000/- and comply with the order within four weeks. The Corporate Debtor failed to comply with the order though it attained finality by 07.05.2017 and total amount due is Rs.45,23,790/- as on 07.05.2017.

- (b) Accordingly, they have issued demand notice dated 20.05.2017 by way of Form No. 3 &4, demanding to pay the dues, and the same was served on Corporate Debtor. The Corporate debtor does not chose to reply thereby there has no dispute over the debt arise out of order dated 07.04.2017 passed in CC No.195 of 2017 on the file of Telangana State Consumer Disputes Redressal Commission, Hyderabad.
- (c) In the above circumstances, the petitioner has filed the present petition by seeking to initiate action under IBC, 2016.
- (d) It is stated that there is no dispute over the debt, and no legal proceedings pending as on the issue of notice i.e. 20.05.2017 and the order date 07.04.2017 is subsisting, and no stay over the order dated 07.04.2017; Hence, the debt is ascertained and Corporate Debtor failed to pay the debt.



3. Heard Mr. V.Appa Rao, Learned Counsels for the petitioners and Mr. P. Raja Sripathi Rao, learned counsel for the respondent and have also carefully gone through the pleadings of both the parties.
4. The case is listed for hearing on admission, on, various dates viz: 29.09.2017, 18.10.2017, 16.11.2017, 30.11.2017 & 21.12.2017. The matter was adjourned on the above dates at the request of the parties.

5. The Corporate Debtor has filed a memo dated 16/11/2017 by interalia stating that Operational Creditor has entered into a settlement with them and thus agreed for settlement of Rs. 36,05,226/- towards full and final settlement of the claim of Operational Creditor. Accordingly the Corporate Debtor has drawn a DD for Rs. 5 Lakhs and post- dated cheques as detailed below :

- a) Rs.5,00,000/- by way of DD dtd 16.11.2017.
- b) Rs.5,17,538/- Ch. No 242670 dtd 17.12.2017
- c) Rs. 5,17,538/- Ch. No.242671 dtd 17.01.2018
- d) Rs. 5,17,538/- Ch. No.242672 dtd 17.02.2018
- e) Rs. 5,17,538/- Ch.No.242673 dtd 17.03.2018
- f) Rs. 5,17,538/- Ch.No.242674 dtd 17.04.2018
- g) Rs. 5,17,538/- Ch.No.242675 dtd 17.05.2018

The Operational Creditor has also filed a Memo dated 30/11/2017 by acknowledging the above DDs and Cheques Payments. Both learned Counsels have submitted that the issue has been settled and the case may be closed subject to realization of the Post-dated Cheques.

6. In view of the above facts and circumstances of the case, we are of the considered view that Petitioners/ Operational Creditors can be permitted to withdraw Company petition. Hence the Company Petition bearing CP (IB) No. 203/9/HDB/2017 is disposed of as withdrawn, by directing the Corporate Debtor to honour above Post-dated Cheque as mentioned in the memo as extracted above. No order as to costs.



प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER CP (IB) No. 203/9/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 21.12.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 17.1.2018

P. K. Kulkarni

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

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)