

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

CP (IB) No. 202/9/HDB/2017
U/S 9 of IBC 2016

R/w Rule 6(1) of I&B (AAA) Rules, 2016

In the matter of

- 1.) Mr. Vivek Kale
S/o Amarnnath Kale
Rep by GPA Mr Amarnath kale
- 2) Mrs. Sushmitha
W/o Vivek kale
Rep by GPA Mr. Amarnath Kale
- 3) Amarnath Kale
S/o Narayanarao Kale

All are R/o C-71, Maduranagar
Hyderabad - 500038

....Petitioners/
Operational Creditors



Versus

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. Mr. 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

.....Respondents/
Corporate Debtors

(present address 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 Petitioner/ Operational Creditors: Mr. V. Appa Rao
Advocate,

For the Respondent/ Corporate Debtors: Mr. P. Raja Sripathi
Rao, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present company petition bearing CP (IB) No. 202/9/HDB/2017 is filed Vivek Kale and 02 others, Petitioner/ 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 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 flat No.719 on 7th Floor from Corporate Debtor in the year 2011 vide agreement of sale dated 09.03.2011 and paid an amount of Rs.29,82,530/-. However, the corporate debtor failed to construct the flat by due date and thereby Operational Creditor have



filed CC No.23 of 2015 on the file of State Consumer Disputes Redressal Forum of Telangana at Hyderabad. The same was allowed by common order dated 03.03.2017 by directing the Corporate Debtor to pay an amount of Rs.29,82,530/- + interest @12% w.e.f 21.11.2012 plus compensation and comply with the order within four weeks. The Corporate Debtor failed to comply with the order though it attained finality by 02.04.2017 and total amount due is Rs.48,22,474/- as on 02.04.2017.



- (b) Accordingly, they have issued demand notice dated 28.04.2017 by way of Form No. 3, demanding to pay the dues, and the same was served on Corporate Debtor. The Corporate debtor, instead of repaying debt, gave reply stating that they would challenge the Order dated 03.03.2017 passed in CC No. 23 of 2015 before the higher forums.
 - (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. 28.04.2017, and the order date 03.03.2017 is subsisting; Hence, the debt is ascertained and Corporate Debtor failed to pay the debt.
3. I have heard Mr. V.Appa Rao, Learned Counsel 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 Operational Creditors have a memo dated 30.11.2017 by stating that the issue is settled for a total sum of Rs.46,49,833/- towards full and final settlement of claim and the following are details of payment:

- a) Rs.5,00,000/- by way of DD dtd 16.11.2017.
- b) Rs.6,91,639/- Ch. No 242677 dtd 17.12.2017
- c) Rs.6,91,639/- Ch. No.242678 dtd 17.01.2018
- d) Rs.6,91,639/- Ch. No.242679 dtd 17.02.2018
- e) Rs.6,91,639/- Ch.No.242680 dtd 17.03.2018
- f) Rs.6,91,639/- Ch.No.242681 dtd 17.04.2018
- g) Rs.6,91,639/- Ch.No.242682 dtd 17.05.2018



6. In view of the above facts and circumstances of the case, we are of the considered view that Petitioner/ Operational Creditors can be permitted to withdraw Company petition. Hence the Company Petition bearing CP (IB) No. 202/9/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
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संख्या
E NUMBER CP (IB) No. 202/9/HDB/2017
य का तारीख
E OF JUDGEMENT 21-12-2017
तैयार किया गया तारीख
Y MADE READY ON 21-12-2017

By. Regr./Asst. Regr./Court Officer/
tional Company Law Tribunal, Hyderabad Bench

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)