

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CP/215/2015
TP (HCW) No. 65/HDB/2017
U/s 9 R/w Sections 13, 14 & 33 of the IBC, 2016

In the matter of

Mr. Satish Sharma
S/o Late Sri M.P. Sharma
R/o Spring View, First Floor
Building No.335, Ward No.8
Dada Bari, Mehrauli
New Delhi - 110030

...Petitioner
/ Operational Creditor

Versus

Comp-u-Learn Tech India Private Ltd
(presently known as CTIL Limited)
Represented by its Chairman
Mr. P.V.V. Satyanarayana
4th Floor, My Home Tycoon, Lifestyle Building
Greelands, Hyderabad - 500016

...Respondent
/ Corporate Debtor



Order Pronounced on: 11.12.2017

CORAM:

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

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties/ Counsels present

For the Petitioner: Shri S. Ram Babu & Shri B. Ramesh
Advocates

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The present Company Petition bearing CP/215/2015 (TP(HCW) No.65/HDB/2017) is filed by Shri Satish Sharma, (Petitioner / Operational Creditor herein) under Section 9, R/w Sections 13, 14 & 33 of Insolvency and Bankruptcy Code, 2016, seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s Comp-u-Learn Tech India Private Limited. (Respondent/Corporate Debtor).
2. The case was listed on various dates viz. 07.04.2017, 18.04.2017, 26.04.2017, 28.04.2017 and on 05.06.2017.
3. During the hearing held on 05.06.2017, Shri Ram Babu the Ld. Counsel for the Petitioner appeared and requested to post the case on 06.06.2017, and further case was posted on 14.06.2017.
4. During the hearing held on 14.06.2017, The Ld. Counsel for the Petitioner submitted that he has already complied with the Central Government Instruction dated 07.12.2016 and submitted required documents. The Ld. Counsel for the Petitioner was also directed to take personal notice to Respondent. The case was posted to 30.06.2017.
5. During the hearing held on 30.06.2017, Shri B Ramesh the Ld. Counsel for the Petitioner, appeared on behalf of his Senior Shri S Ram Babu, none appeared for the Respondent. Ld. Counsel for Petitioner suggested a name of IRP as per the provisions of section 9 of IBC and he was directed to suitably amend the Petition and file the same before the next date of hearing. The Ld. Counsel for Petitioner submits that he has served the personal notice on Respondent and filed a memo on 30.06.2017. The case was posted on 18.07.2017.



6. During the hearing held on 18.07.2017, the Ld. Counsel for the Petitioner sought time of two weeks and case was posted to 03.08.2017.
7. During the hearing held on 03.08.2017, Shri Rambabu, the Ld. Counsel for the Petitioner submitted a memo seeking permission to withdraw his Vakalat and the same was permitted. Subsequently, the case was posted to 08.08.2017 under the caption "for dismissal". To give one more opportunity to the Petitioner, the case is posted today i.e. 11.12.2017, The Petitioner nor any representative were present to prosecute the case. None appeared for the Respondent since the case was posted before this Bench on various dates.
8. The record shows that the case was instituted in the year 2015 and no steps have been taken to serve the notice on the Respondent. It is also recorded by the Hon'ble High Court on 14.11.2016 that the name of the Respondent Company was changed way back on 29.8.2012 but the Petition /Application is filed in the name of the old company. The record also shows that the Applicant has not served any notice on the New/Changed Company name. Even in the compliance stated to have been made by the Petitioner on transfer to this Tribunal, he has filed documents of proof of service of notice to old company.
9. The Corporate Debtor is listed on the Bombay Stock Exchange (BSE).
10. The company petition is filed basing on the judgement passed in OS 61/2014 by Hon'ble Addl. District Judge, Patiala House, New Delhi on 16.05.2014, wherein it was ordered that the suit of the Respondent is decreed for the sum of Rs. 12,00,000/- with interest @ 12% p.a from the date of institution of suit till the realisation from the court



of Addl. District Judge Saket Court, South Delhi. The Operational Creditor was appointed as Vice President, sales by the Corporate Debtor. However, the Corporate Debtor failed to pay the salary as agreed. Consequently, the Operational Creditor filed suit for recovery on 10th August 2009, vide OS No.1138/2009 and through the process of adjudication vide OS No. 61/2014 before the Hon'ble Additional District Judge, South District, Saket and the Hon'ble Judge pleased to pass Decree dated 16.05.2014.

11. The Operational Creditor filed Execution Petition (EX. No.30 of 2014) dated 16.08.2014, before the Hon'ble Additional District Judge, South District, Saket. However, the EP amount was not realized till date.
12. On 25.02.2015, The Operational Creditor issued a legal notice U/s 433 and 434 of the Companies Act, 1956 to the Corporate Debtor and demanded the decreed amount along with interest and cost which comes to Rs. 19,73,042/-. Despite receiving of the said notice, the Corporate Debtor failed and ignored to pay the said Decreed amount to the Operational Creditor.
13. Consequently on 15.06.2015, the Operational Creditor filed Company Petition No. 215/2015 against the Corporate Debtor before the Hon'ble High Court at Hyderabad, U/s 433(e)(f), 434(1)(a)(c) & 439(1)(b) of the Companies Act, 1956 for winding up of the Corporate Debtor's Company.
14. Consequently, the Petitioner served notice dated 25.02.2015 under Sections 433 & 434 of the Companies Act, 1956, demanding to pay the decreed amount of Rs. 19,73,042/- within 21 days from the date of receipt of the above notice. Despite the notice, the Respondent failed to pay the amount to the Petitioner till date. Aggrieved by the above, the Petitioner filed the present Company Petition



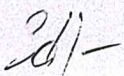
before the Hon'ble High Court and directed to issue notice upon the Respondent Company. Subsequently, the Company Petition was transferred to this Tribunal.

15. When the case was taken up for hearing on 03.08.2017, Shri Ram Babu, Learned Counsel for the Petitioner submits a memo stating that he wants to withdraw his Vakalat from the present case as the Petitioner is not co-operating with the Learned Counsel in prosecuting the case and also submitted in its memo that "The Petitioner is not cooperating in pursuing the litigation. Moreover, he is accusing me and he informed me that he will pursue the case on his own". The memo was taken on record. The case was subsequently posted on 08.08.2017 under the caption "for dismissal". However, none appeared for the Petitioner. Therefore, as an abundant caution, the Adjudicating Authority has given one more opportunity to the petitioner/operational creditor and the case is posted on 11.12.2017. The daily cause list is displayed on the website of NCLT. However, none appeared for the Petitioner to prosecute the case even on 11.12.2017. Since, no one appeared on 11.12.2017 before this Tribunal, the case is dismissed.

16. In view of the facts and circumstances mentioned above, we dismissed the Company Petition bearing CP.No.215/2015 [TP(HCW)No.67/HDB/2017) for non prosecution.

17. No order as to costs.




RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)


RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)


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

प्रमाणित प्रति
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केस संख्या
CASE NUMBER... CP/215/2015 TP(HCW)No.67/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT... 11.12.2017
निर्णय किया गया तारीख
DATE WHEN MADE READY ON... 13.3.2018