

NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P NO. 360/2016
CA NO.

CORAM:

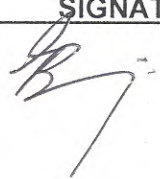
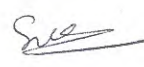
PRESENT: CHIEF JUSTICE M. M. KUMAR
Hon'ble President

SH. R.VARADHARAJAN
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE PRINCIPAL BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 26.04.2017**

NAME OF THE COMPANY: Maharstra Tourism Development Corporation
V/s
Luxury Trains Pvt. Ltd.

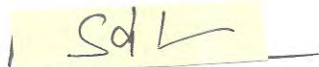
SECTION OF THE COMPANIES ACT: 439(1)(b)

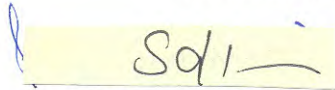
S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
	Mr. Gourab Banerji	So. Adv	Petitioner's Advocate	
	Shri Harsha Pechara	Adv	Advocate	
	Ashish Tiwari	Adv	Advocate	
	Subho P Mukherjee	Adv	<u>ORDER</u> Petitioner	

Learned counsel for the petitioner states that a copy of the petition as well as additional affidavit shall be sent to the respondent in terms of the Rules known as Insolvency & Bankruptcy (Adjudicating Authority) Rules, 2016. At this stage, the petition is incomplete and cannot be taken up for further proceeding.

Interim order granted by Delhi High Court to continue.

List on 09.05.2017


(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT


(R. VARADHARAJAN)
MEMBER (JUDICIAL)

26.4.2017

Vineet

NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P NO. 360/2016
CA NO.

CORAM:

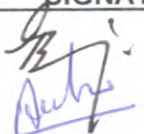
PRESENT: CHIEF JUSTICE M. M. KUMAR
Hon'ble President

SH. R.VARADHARAJAN
Hon'ble Member (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE PRINCIPAL BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 09.05.2017

NAME OF THE COMPANY: Maharstra Tourism Development Corporation
V/s
Luxury Trains Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 439(1)(b)

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
(1)	Mr. Gourab Banerji	Sr. Advocate	- for Petitioner	
(2)	Mr. Seeharsha Pechana	Adv		
(3)	Mr. Ashish Tiwari	Adv.		

ORDER

Learned counsel for the petitioner states that the matter be adjourned for arguments.

List on 20.07.2017.

392
(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT

391
(R. VARADHARAJAN)
MEMBER (JUDICIAL)

09.05.2017
Vineet

N THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP NO.360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corporation Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1)(b) of the Companies Act, 2016

Order delivered on 20.07.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Applicant/petitioner : Mr. Gourab Banerji, Sr. Adv.
Sri Harsha Peechara, Mr. Ashish Tiwari,
Mr. Subhro Mukherjee, Advocate
For the Respondent :

ORDER

The name of the Insolvency Professional is from the old list.
Learned Counsel for the petitioner requests for a short
adjournment to check and then file appropriate affidavit.

List the matter on 28th July, 2017.


(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT


(DEEPA KRISHAN)
MEMBER(TECHNICAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH**

CP/CA. No. 360/2016

IN THE MATTER OF:

M/s Maharashtra Tourism Development Corporation	PETITIONER
Vs		
M/s Luxury Train Pvt. Ltd.	RESPONDENT

SECTION:

Under Section 439(1)(b)

Order delivered on 28.07.2017

Coram:

**R. VARADHARAJAN
HON'BLE MEMBER (JUDICIAL)**

**DEEPA KRISHAN
HON'BLE MEMBER (TECHNICAL)**

For the PETITIONER

:- Harsha Peechara, Advocate
Mr. Ashish Tiwari, Advocate

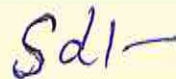
For the RD

:- Mr. Manish Raj, Company Prosecutor

ORDER

In view of Single Bench sitting in the afternoon session, the matter was not able to be taken up. Hence, at the joint request of the parties, the matter is posted for hearing on 23rd August 2017.


(DEEPA KRISHAN)
MEMBER (TECHNICAL)


(R. VARADHARAJAN)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI
SPECIAL BENCH

CP-360/2016

In the matter of :

Maharashtra Tourism Development Corporation

....PETITIONER

Vs.

Luxury Train Private Limited

... RESPONDENT

SECTION :

Under Section 439 (1) (b)

Order delivered on 23.8.2017

Coram :

R. VARADHARAJAN,

Hon'ble Member (Judicial)

Deepa Krishan,

Hon'ble Member (Technical)

For the Petitioner

: Mr. Gourab Banerji, Sr. Advocate

Mr. Ashish Tiwari, Advocate

For the Respondent/Cor. Debtor

: -

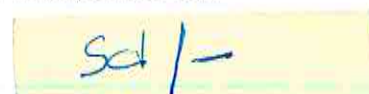
ORDER

Learned Counsel for the petitioner is present and represents that the matter may be placed before the Hon'ble Principal Bench in view of the earlier orders passed by the said Bench on 27.7.2017 which have been complied with.

List the matter on 28.8.2017 before the Hon'ble Principal Bench.



(DEEPA KRISHAN)
MEMBER (TECHNICAL)



(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Surjit
23.8.2017

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1)(b) of the Companies Act

Order delivered on 28.08.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Applicant/petitioner : Mr. Gourab Banerji, Sr. Advocate
Mr. Harsha Peechara, Mr. Aashish Tiwari,
Mr. S.P. Mukherjee, Ms. Vidhi Jain,
Advocates

ORDER

It appears that respondents are evading service and despite various modes adopted by the petitioner, the service has not been effected. Accordingly, we are of the view that substituted service as per the provisions of Order V Rule-20 of the CPC be resorted to and notice of the petition be published in two newspapers Delhi Edition, i.e. in Times of India (English) and Jansatta (Hindi).

List the matter on 13th October, 2017.

Sd/-
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

Sd/-
(DEEPA KRISHAN)
MEMBER(TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner

Vs.

Luxury Train Pvt. Ltd.

.... Respondent

Order under Section 439(1)(b) of the Companies Act

Order delivered on 13.10.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Applicant/petitioner : Mr. Gourab Banerji, Sr. Advocate
Mr. Harsha Peechara, Mr. Aashish
Tiwari, Mr. S.P. Mukherjee, Ms. Vidhi
Jain, Advocates

ORDER

In pursuance of last order, notices (substituted service) as per the provisions of Order V Rule 20 of the CPC has been published in the newspapers. The publication made in the newspapers alongwith copies be filed, which have been shown to us in the Court.

However, despite publication of notices which specifically mentioned today's date for appearance, no one has put in appearance on behalf of the respondent, therefore, proceed ex-parte.

List the matter for arguments on 6th November, 2017.

— Sd —
(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

— Sd —
(DEEPA KRISHAN)
MEMBER(TECHNICAL)

13.10.2017
V. Sethi

IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI
SPECIAL BENCH (COURT-I)

CP-360/2016

In the matter of :

Maharashtra Tourism Dev. Corporation

...PETITIONER

Vs.

Luxury Train (P) Limited

...RESPONDENT

SECTION :

Under Section 439 (1) (b)

Order delivered on 06.11.2017

Coram :

R. VARADHARAJAN,

Hon'ble Member (Judicial)

DEEPA KRISHAN

Hon'ble Member (Technical)


For the Petitioner /applicant : Sri Harsha Peechara , Advocate

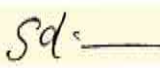
For the Respondent/Corporate Debtor : - : Mr. Ashish Tiwari, Advocate

ORDER

Learned Counsel for the petitioner is present and represents that the leading Counsel arguing the matter is not available due to some personal difficulty and in the circumstances, some time may be granted and the matter be adjourned.

Taking into consideration the said request, the matter is posted for hearing on 05.12.2017.


(DEEPA KRISHAN)
MEMBER (TECHNICAL)


(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Surjit
06.11.2017

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner

Vs.

Luxury Train Pvt. Ltd.

.... Respondent

Order under Section 439(1)(b) of the Companies Act

Order delivered on 05.12.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR

Hon'ble President

Ms. Deepa Krishan

Hon'ble Member (T)

For the Applicant/petitioner : Mr. Gourab Banerji, Sr. Advocate
Mr. Harsha Peechara, Mr. Aashish Tiwari,
Mr. S.P. Mukherjee, Ms. Vidhi Jain, Advs.

ORDER

Arguments heard. Order reserved.

Sd/-

**(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT**

Sd/-

**(DEEPA KRISHAN)
MEMBER(TECHNICAL)**

05.12.2017
VINEET

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

C.P. No. 360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corporation
.... Operational Creditor/Petitioner
v.
Luxury Train Private Limited Corporate Debtor

Judgement delivered on 11.12.2017

Coram:

CHIEF JUSTICE (RETD.) M.M.KUMAR
Hon'ble President

Ms. Deepa Krishan
Hon'ble Member (T)

For the Operational Creditor: Mr. Gourab Banerji, Sr. Advocate
Mr. Harsha Peechara,
Mr. Aashish Tiwari, Mr. S.P.
Mukherjee, Ms. Vidhi Jain, Advs.

For the Respondent :

M.M.KUMAR, PRESIDENT

JUDGMENT

This is an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The petitioner claims that it is an 'Operational Creditor' and the respondent is a 'Corporate

Debtor'.The Corporate Identification number of the petitioner is U99999MH1975SGC018086 and it is based at Mumbai.

2. The petitioner in the application has stated that it is a fully owned concern by Government of Maharashtra and was incorporated for the purpose of systematic development of Tourism on commercial lines. It receives financial assistance from the State Government of the Maharashtra in the form of share capital and grants. The State Government has entrusted all commercial and promotional tourism activities to the petitioner and since its inception, petitioner is engaged in the development and maintenance of the various tourist locations of Maharashtra.

3. Ms. Kavita Solunke, Legal Advisor of the petitioner company has been authorized by the letter of authority dated 28.12.2015(Annexure P-1) to sign and submit the petition.

4. The Corporate Debtor 'Luxury Train Private Limited' was incorporated on 06.06.2011 under the Companies Act, 1956. It has two directors namely Mr. Sajivee Trehaan and his son Mr. Rohan Trehaan, both are having 50-50 (%) shareholding in the



respondent company. It has its registered office at 36, Chanderlok Building, Janpath, Connaught Place, New Delhi-110001. The object of the respondent company has also been unfolded in the application that it was to take on lease and run luxury trains, to carry out business as a tourist agent and to act as a consultant in the field of travel and such other allied field thereto.

5. It is appropriate to mention that before filing the instant petition the petitioner has filed a petition under Section 439(1) (b) of the erstwhile Companies Act, 1956 before the Hon'ble Delhi High Court. The Hon'ble High Court vide its interim order dated 02.05.2016 had restrained the respondent company not to dispose of or alienate or encumber any assets of the company with certain other directions. Thereafter on account of notification No, D.L.-33004/99 dated 07.12.2016 issued by the Ministry of Corporate Affairs the petition was transferred to this Tribunal vide order dated 22.02.2017 passed by Hon'ble High Court. Subsequently in pursuance of order dated 22.03.2017 passed by this Tribunal, compliance in accordance with various notifications and the provisions of the Code, 2016 has been made



by the petitioner and in this regard appropriate affidavit dated 21.04.2017 filed by him.

6. The case of the 'Operational Creditor'-petitioner is that in year 2004, the petitioner got an exclusive right from the Railways to operate "Deccan Oddessy Luxury Train" against the payment of haulage and other additional charges as fixed by the Railways from time to time. In year 2009-10, with intent to act as a tour operator to charter the aforesaid luxury train, Managing Director of the respondent company approached the petitioner and expressed his interest to operate the said luxury train by explicating that his group is the largest consolidator & GSA for Palace on Wheels, Royal Rajasthan on Wheels & based in New Delhi, India. A copy of the EOI submitted by respondent company has been placed on record as Annexure P-3.

7. Consequently, the expression of interest of respondent company was accepted by the petitioner by issuing sanction letters dated 06.12.2010 & 19.09.2011 and agreement dated 05.02.2013 executed between the petitioner and respondent company which was covered with full detailed terms and

conditions as agreed. Copies of the sanction letters and the agreement have been placed on record as Annexure P-4, P-5 & P-6. As per the terms and conditions stipulated in the agreement and sanction letters for each tour operated by the respondent company, he was required to pay agreed amount towards operational cost and profit to the petitioner. In addition to that, the respondent company was also required to pay other charges i.e. Haulage charges and other applicable charges to the Railway from time to time. As per the recital and intention put in the agreement, the entire dues were to be paid by the respondent company on or before 31.12.2013.

8. Respondent company issued various cheques towards the aforesaid liabilities in favour of petitioner however, on presentation all bounced back with the endorsement of 'insufficient funds'. Copies of the cheques as well as return memos have been placed on record as Annexure P-7 (Colly).

9. Subsequently in the year 2014, Mr. Sajivve Trehan transferred the entire business of the sole proprietor of "M/s The Luxury holidays" i.e his sole proprietorship to the respondent

company and in this regard business transfer agreement was executed between respondent and the transferrer company through Mr. Sajivve Trehaan. Copies of the business transfer agreement and valuation report have been placed on record as Annexure P-8 (Colly).

10. The petitioner has further asserted that respondent company also illegally assigned the guarantee given to the petitioner in favour of the Central Bank of India to avail credit facilities in order to frustrate the claim of the petitioner, which came to the knowledge of the petitioner only through the Bank's letter dated 15.01.2016, when the bank raised demand against the petitioner. Hence, the respondent company has not only cheated the petitioner but also the Bank as well and an outstanding due of about Rs. 25 crores are owed to the Bank by the respondent company. Copy of letter dated 15.01.2016 issued by the Bank has been placed on record as Annexure P-12.

11. The total amount of operational debt including interest claimed by the 'Operational Creditor' is Rs. 20,07,53,000/- as on 15.02.2015.



12. After making various attempts to serve the respondent when they were avoiding to accept notice and did not choose to come before this Tribunal, an order for substituted service was passed on 28.08.2017 directing the Operational Creditor to adopt the procedure as laid down under Rule 38(4) of the NCLT Rules, 2016 r/w Order V Rule 20 CPC. Thereafter in compliance of aforesaid order publication in two newspapers was carried but this also all in vain and afterwards vide order dated 13.10.2017 of this Tribunal respondent were proceeded ex-parte.

13. We have heard Mr. Gourab Banerji, learned Senior counsel for the petitioner and have perused the pleadings along with various affidavits with his able assistance. As per the agreement and sanction letters Annexure P-4 to P-6 tour operated work was entrusted by the petitioner to the respondent and in pursuance to that respondent was required to pay to the petitioner, agreed amount towards operational cost, profit and other charges. It is proved beyond doubt that 'job work' i.e. 'services' in terms of Section 5 (21) of the Code were procured by the Corporate Debtor from the Operational Creditor. For determination of the aforesaid issue it would be necessary to read the definition of the

expressions 'Operational Creditor' and 'Operational Debt' given in Section 5 (20) & (21) of the Code and the same is set out below:-

Section 5 (20) & (21)

(20) "operational creditor" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

Operational Creditor is a person to whom operational debt is owed and includes any person to whom such debt has been assigned or transferred. The definition of Operational Creditor is not exhaustive but illustrative. It is capable of covering those heads which are not specifically mentioned in the definition. The definition of operational debt postulates that it is a claim in respect of the provision of 'goods' or 'services' including

employment etc. A perusal of Annexure P-4 to P-6 suggests beyond doubt that the work i.e. tour operated by the respondent company fulfils the requirement of word i.e. 'services' as defined in Section 5 (21) of the Code. Therefore, 'Operational Creditor' fulfils and comes under the purview of aforesaid Sections.

14. It is also evident that Corporate Debtor has committed default and the amount of Rs. 20,07,53,000/- has remained unpaid since 15.02.2015. For extinguishing such liability to some extent Corporate Debtor had issued various cheques in favour of 'Operational Creditor' which were returned back with the endorsement of 'insufficient funds' and at present proceedings under Section 138 of Negotiable Instrument Act are in progress before the learned Metropolitan Magistrate, Mumbai. Suit for recovery of money under Order XXXVII of the Code of Civil Procedure, 1908 is also pending before the Hon'ble High Court of Bombay. Thus, there is default committed on the part of the Corporate Debtor within the meaning of Section 3 (12) read with Section 4 and Section 9 (1) of the Code, 2016.



15. The Operational Creditor has also proposed the name of Interim Insolvency Professional namely Mr. Manoj Kulshrestha, 4th Floor, CS 14, Ansal Plaza, Vaishali (Opp. Dabur), Ghaziabad, UP-201010, who has made declaration in accordance with the provisions of Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

16. As a sequel to the above discussion, this petition is admitted and Mr. Manoj Kulshrestha is appointed as an Interim Resolution Professional. His registration number is IBBI/IPA-003/IP-N00005/2016-17/10024.

17. In pursuance of Section 13 (2) of Code, we direct that Interim Insolvency Resolution Professional shall immediately make public announcement with regard to admission of this application under Section 7 of the Code. We also declare moratorium in terms of Section 14 of the Code. A necessary consequence of imposition of the moratorium resulting from the provisions of Section 14 (1) (a), (b), (c) & (d) would thus be that the following prohibitions come in operation:



- “(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.”

18. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or to the supply of the essential goods or services to the Corporate Debtor which may be specified. Such supply is not

to be terminated or suspended or interrupted during the moratorium period.

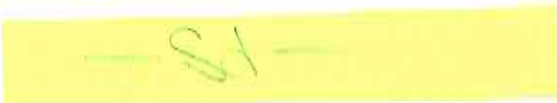
19. The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, *interalia*, by Sections 15, 17, 18, 19, 20 & 21 of the Code. He must follow best practices available in the discipline of Insolvency even borrowing from others jurisdiction provided such practices are suitable to the conditions of this Country. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor. In case there is any violation the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order.

20. We specifically direct the Interim Resolution Professional to protect and preserve the value of the property of the 'Corporate



Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code.

21. The office is directed to communicate a copy of the order to the Financial Creditor and the Corporate Debtor at the earliest possible but not later than seven days from today.


(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT


(DEEPA KRISHAN)
MEMBER(TECHNICAL)

11.12.2017
VINEET

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

C.P. No. 360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corporation
Vs.
Luxury Train Pvt. Ltd.

.... Petitioner

.... Respondent

Order under Section 439 (1) (b)

Order delivered on 24.04.2018

Coram:

CHIEF JUSTICE (RTD.) M.M. KUMAR
Hon'ble President

Sh. S. K. MOHAPATRA,
Hon'ble Member (Technical)

PRESENTS

For the petitioner:

For the Respondent(s):

ORDER

Diary No. 2220

Notice of the application to the non applicant-Central Bank of India.

Process dasti.

List for further consideration on 03.05.2018.

-sd-

(M.M.KUMAR)
PRESIDENT

-sd-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

24.04.2018
Vineet

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
SPECIAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner

Vs.

Luxury Train Pvt. Ltd.

.... Respondent

Order under Section 439(1)(b) of the Companies Act

Order delivered on 03.05.2018

Coram:

SH. M.K SHRAWAT

HON'BLE MEMBER (JUDICIAL)

DR. DEEPTI MUKESH

HON'BLE MEMBER (JUDICIAL)

PRESENTS

For the Applicant/petitioner : Mr. Manoj Kulshreshtra, RP

ORDER

It is unfortunate to note that even after notice to the Central Bank of India, no one is present. Learned R.P. is present and has informed that today's date of hearing was duly communicated to an officer, Mr. P.C. Khurana of Central Bank of India. In spite of due intimation, he remains absent. It is directed that in case of non-compliance, severe action shall be taken as per the provisions of the Code on the next date of hearing. Matter is adjourned with a direction to the officer of the Central Bank of India, Jeevan Tara Building, LIC Building, Parliament Street, New Delhi-110 001 to be present on the next date of hearing.

List the matter on 14th May, 2018.

Sd/-

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

Sd/-

M.K SHRAWAT
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1) (b) of the Companies Act.

Order delivered on 14.05.2018

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

Presents:

Mr. H.S Kohli, Advocate for Central Bank of India
along with Sh. Rajnish Kumar Gupta, Chief Manager
of Central Bank of India.
Sh. Manoj Kulshetra, Resolution Professional.

ORDER

This is an application filed by the resolution professional with a prayer for issuance of direction to the Central Bank of India, the sole member of the CoC approve and his professional fee for acting and to make arrangements for the expenses incurred in pursuance of order dated 03.05.2018. Mr. Rajnish Gupta, Chief Manager of the Central Bank of India is present in person along with the learned counsel. Learned counsel after obtaining instructions it has been stated that needful shall be done within ten days. Accordingly, we defer the hearing to 04th June, 2018.

Sd—

(M.M.KUMAR)
PRESIDENT

—Sd—

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharastra Tourism Development Corpn. Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1)(b) of the Companies Act

Order delivered on 25.05.2018

Coram:

Dr. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)

Sh. S. K. MOHAPATRA,
HON'BLE MEMBER (TECHNICAL)

PRESENTS:

For the Applicant/petitioner:

ORDER

Learned R.P. has filed minutes of the 4th Meeting of COC held on 17th May, 2018, which is taken on record subject to all just exceptions. No one has put in appearance today.

As per the last order dated 14th May, 2018, hearing is deferred to 4th June, 2018.

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

25.05.2018
V.Sethi

Sd/-

(Dr. DEEPTI MUKESH)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1) (b) of the Companies Act

Order delivered on 04.06.2018

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Sh. S.K. Mohapatra,
Hon'ble Member (T)

PRESENTS:

For the Applicant/petitioner: Mr. Rajeev Kumar, Adv. for RP.
Mr. Manoj Kulshetra, RP.
For the respondent: Mr. H.S Kohli, Adv. for CBI.

ORDER

Mr. H.S Kohli, learned counsel for the Central Bank of India states that in terms of order dated 14.05.2018, the CoC has approved professional charges of the RP and also the expenses incurred as was directed by the order dated 03.05.2018 also.

CA-455(PB)/2018:-

This is an application with a prayer for extending the period of 180 days for the Corporate Insolvency Resolution Process beyond 10.06.2018 when it would expire. A request has been made for further extension of 90 days. The aforesaid request has been made by the CoC in its 4th meeting held on 17.05.2018. In the agenda item No. 3 the following resolution has been passed:-

"RESOLVED THAT An application shall be filed before by RP before Honourable NCLT Delhi for extension of time period of 90 days."



It is appropriate to mention that the aforesaid resolution has been preceded by the Minutes of the meeting where the reasons for seeking extension have been given. The same is read as under:-

“Forensic investigation is yet to be done in this case which take time and CIRP period is going to expire on 10/06/2018. Therefore, there is a need for taking an extension of 90 days in this case. After detailed discussions, the CoC agreed that extension of time for 90 days may be taken for which as per sec 12(2) of the IBC, RP may file an application to honourable NCLT to extend the period of CIRP beyond 180 days.”

Having heard the learned counsel and after perusal of the Minutes of the CoC, we are of the view that case for extension of 90 days period for extension of CIR Process is made out and accordingly, period is extended by 90 days from 10.06.2018.

Application stands disposed of.

Sd/-

(M.M.KUMAR)
PRESIDENT

Sd/-

(S.K. MOHAPATRA)
MEMBER(TECHNICAL)

04.06.2018
Aarti

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

CP-360/2016

IN THE MATTER OF:

Maharashtra Tourism Development Corpn. Applicant/petitioner
Vs.
Luxury Train Pvt. Ltd. Respondent

Order under Section 439(1) (b) of the Companies Act.

Order delivered on 12.07.2018

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

Presents:

For the petitioner : -

ORDER

CA-567(PB)/2018

The Minutes of the 5th meeting of the CoC are taken on record subject to all just exceptions. The office is directed to maintain the file and put up the same at the time of final disposal.

CA-567(PB)/2018 stands disposed of.

Sd/-
(M.M.KUMAR)
PRESIDENT

Sd/-
(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

Item No. 17
360/2016

IN THE MATTER OF:

Mahastra Tourism Development Corporation	Applicant/petitioner
v.		
Luxury Train Pvt. Ltd.	Respondent

SECTION : UNDER SECTION 439(1)(b) CIRP

Order delivered on 04.10.2018

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR
Hon'ble President

Sh. S. K. MOHAPATRA,
Hon'ble Member (Technical)

PRESENTS:

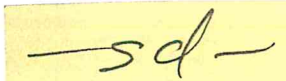
For the petitioner:

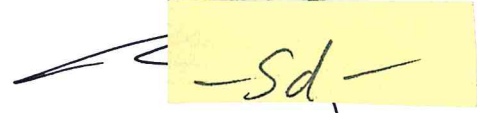
For the Respondent(s): -

ORDER

CA-961(PB)/2018

Arguments heard. Order reserved.


(M. M. KUMAR)
PRESIDENT


(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

04.10.2018
Aarti

**THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH
AT NEW DELHI**

**C.A. 961(PB) /2018
IN
Company Petition No. 360/2016**

In the matter of:

Manoj Kulshrestha ... Applicant/Resolution Professional

AND

In the matter of:

Luxury Train Private Ltd. Corporate Debtor

*Under Section 33 of the Insolvency and Bankruptcy Code, 2016
for liquidation of the corporate debtor*

Judgment delivered on: 08.10.2018

Coram:

**CHIEF JUSTICE (RTD.) M.M.KUMAR
Hon'ble President**

**S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)**

For the Petitioner: Mr. Manoj Kulshrestha, RP

C.A. 961(PB)/ 2018 In C.P. 360/2016



ORDER

S. K. Mohapatra, Member

1. This is an application filed by the Resolution Professional under Section 33 (1) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") for issuance of directions for liquidation of the corporate debtor, M/s Luxury Train Private Ltd.
2. The facts in brief are that one operational creditor, M/s Maharashtra Tourism Development Corporation Limited had filed an application bearing no. C.P. 360/2016 under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor, M/s Luxury Train Private Ltd. The said application was admitted by this tribunal vide order dated 11.12.2017 and Mr. Manoj Kulshrestha, was appointed as an Interim resolution Professional (IRP).



3. The resolution Professional has submitted in the application that in this case there is only one financial creditor i.e. Central Bank of India, who constituted the Committee of Creditors as its sole member.
4. The Interim Resolution Professional appointed a Forensic Auditor, namely M/s Shah Jindal & Associates, Chartered Accountants on 10.07.2018 with the approval of the Committee of Creditors. The auditor submitted his report on 17.09.2018 wherein no asset of the corporate debtor has been reported to be found.
5. It is submitted that the Corporate Debtor was in operation of running Luxury Trains on behalf of Indian Railways. There is no asset found in the name of company and no current records were found, as both the promoters Mr. Sanjive Trehan and Mr. Rohan Trehan are not in India. It is stated in the application that Mr. Sanjive Trehan the main promoters is staying in Switzerland.



6. As 180 days of moratorium period was expiring, an application was filed by the resolution professional for extension of CIRP period and upon such application filed by the RP further time of 90 days w.e.f. 10.06.2018 was extended vide order dated 04.06.2018.
7. It is stated in the application that an Expression of interest was published inviting resolution Plan in respect of the corporate debtor. However no offer was received within the 270 days period of CIRP which expired on 10.09.2018.
8. In the 7th meeting of Committee of Creditors, it was decided that an application may be moved by RP before this Tribunal for liquidation of the Corporate Debtor. However, it was decided by the CoC (i.e. Central Bank of India – the sole member of CoC) that they cannot bear the professional fee and other expenses proposed by RP, during the liquidation process of the Corporate Debtor, as there are no assets in the Corporate Debtor.



9. During the hearing the Resolution Professional consented to act as Liquidator and undertook to submit his consent in appropriate Form.

10. In the factual background and in the absence of any resolution plan and for want of time beyond statutory CIRP period; there is no other alternative but to order in conformity with the 100 % decision of the CoC, with its sole member for liquidation of the corporate debtor under Section 33 of the Code.

11. In the result the application is allowed by ordering liquidation of the corporate debtor, namely M/s Luxury Train Pvt. Ltd. in the manner laid down in the Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 along with following directions:

- a. Mr. Manoj Kulshrestha resolution professional holding registration no. IBBI/IPA- 003/ IP-N00005/ 2016/17 10024, is appointed as Liquidator in terms of Section 34(1) of the Code;




- b. As the fee of the liquidator could not be decided by the committee of creditors, the Liquidator shall be entitled for such fee as provided in the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- c. Mr. Manoj Kulshrestha is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- d. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- e. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have



its effect and that a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;

- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor, if any, as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant regulations.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.



- i. Copy of this order be sent to the financial creditor, corporate debtor and the Liquidator for taking necessary steps.
- j. C.A. 961(PB)/2018 filed in CP 360/2016 is disposed of in the aforesaid terms.

Sd/-

(M.M.KUMAR)
PRESIDENT

Sd/-

(S.K. MOHAPATRA)
MEMBER(TECHNICAL)

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