

26<sup>th</sup> October, 2017

<b>To, The General Manager, The Department of Corporate Relations, The Bombay Stock Exchange Limited., 25<sup>th</sup> Floor, Phiroz Jeejeebhoy Towers, Dalal Street, Mumbai – 400 001</b>	<b>To, The Secretary, National Stock Exchange of India Ltd. 5<sup>th</sup> Floor, Exchange Plaza Plot No.C/1, G Block Bandra Kurla Complex, Bandra (East) Mumbai -400 051.</b>
--	--

Dear Sir/Madam.

**Sub: Intimation under regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015..,**

**Ref: Order passed by NCLAT, New Delhi, Setting aside the order passed by NCLT, Hyderabad Bench, on 10th October, 2017 admitting the application under Section 9 of IBC.**

.....


This has reference to earlier intimation dated. 18.10.2017 regarding admission of application under section 9 of Insolvency and Bankruptcy Code, 2016 (IBC) by National Company Law Tribunal (NCLT), Hyderabad Bench and subsequent appointment of Interim Resolution Professional (IRP) in our company as per NCLT Order dated 10th October, 2017.


NCLAT has decided the matter on 26th October, 2017 i.e. today setting aside the order passed by NCLT, Hyderabad Bench on the grounds that the application under Section 9 was not maintainable; in view of the existence of the dispute and that the parties have already reached the settlement. As a result of this order, the company (Appellant) is released from all the rigour of law and is allowed to function independently through its Board of Directors.

This is for your information and record.

Thanking you,  
Yours truly,

**For GAYATRI PROJECTS LIMITED**

  
**(CS I.V. Lakshmi)**  
**Company Secretary and Compliance Officer**  
**Membership No.17607.**



**I.A. No.743 of 2017**  
**Company Appeal (AT)(Insol.) No.228/2017**  
**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

3<sup>rd</sup> Floor, B-1 Wing  
Pt. Deen Dayal Antyodaya Bhawan  
CGO Complex, Lodhi Road,  
New Delhi-110003.

Dated: 26.10.2017

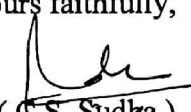
To

1	The Registrar National Company Law Tribunal 6 <sup>th</sup> Floor, Block-3, CGO Complex, Lodi Road, New Delhi-110003.	2	The Registrar, National Company Law Tribunal Corporate Bhawan, Bandiaguda Tattiannaram Village, Hayatnagar Mandal, Rangareddy District, Hyderabad-500068.
---	---	---	---

Subject: In the matter of Sandeep Reddy & Anr. Versus Jaycon Infrastructure Ltd.,  
– Company Appeals filed U/s 61 of the Insolvency and Bankruptcy Code, 2016.

Sir,

A copy of the order of the Appellate Tribunal dated 26.10.2017 on the above subject matter is forwarded herewith under Section 61 of the Insolvency and Bankruptcy Code, 2016. The Registrar, NCLT, New Delhi is requested to place the aforesaid order before the Hon'ble President, National Company Law Tribunal, New Delhi.

Yours faithfully,  
  
(C.S. Sudha)  
Registrar

Encl: As above.

Copy to:

A1	Mr. Sandeep Reddy, R/o House No.8-2-331/2/A Road No.3, Banjara Hills Hyderabad-500034	A2	M/s. Gayatri Projects Ltd., B-1, TSR Towers, 6-3-1090, Raj Bhavan Road, Somajigda, Hyderabad-500082.
R-1	Jaycon Infrastructure Limited 34, Tribhuvan Complex, Ishwar Nagar, Mathura Road, New Delhi-110065.	R1	Jaycon Infrastructure Limited 1464, Ground Floor, Sector-43B, Chandigarh.



**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**I.A. No. 743 of 2017**

**IN**

**Company Appeal (AT) (Insolvency) No. 228 of 2017**

**IN THE MATTER OF:**

**Sandeep Reddy & Anr.**

**...Appellants**

**Vs.**

**Jaycon Infrastructure Ltd.**

**...Respondent**

**Present: For Appellants: - Mr. Arun Kathpalia, Senior Advocate with Mr. Swapnil Gupta, Mr. Angad Mehta and Ms. Ankita Mrs. Shivambika Sinha, Advocates.**

**For Respondent: - Mr. R.K.Gupta and Mr. Achin Goel, Advocates.**

**ORDER**

**26.10.2017-** An Interlocutory Application has been filed in this appeal for praying to pass such interim order. However, as Respondent- 'Operational Creditor' has appeared through learned counsel, on the suggestion of learned counsel for both the parties, the appeal is taken up for hearing and final disposal at this stage.

2. This appeal has been preferred by the appellants against order dated 10<sup>th</sup> October, 2017 passed by Adjudicating Authority (National Company Law Tribunal) Hyderabad Bench, Hyderabad, whereby and whereunder, the application preferred by Respondent- 'Operational Creditor' under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code") has been admitted, order for



public announcement of initiation of 'Corporate Insolvency Resolution Process' has been ordered, 'Interim Resolution Professional' has been appointed who has been directed to constitute a Committee of Creditors, after collection of all claims received against the 'Corporate Debtor' and passed other orders in terms of 'I&B Code'.

3. On 18<sup>th</sup> October 2017, it was argued by learned senior counsel for the appellant that there is a dispute in existence prior to issuance of notice of demand under sub-section (1) of Section 8 of the 'I&B Code'. It was further submitted that the Adjudicating Authority without calling for name of any 'Interim Resolution Professional' from the Insolvency and Bankruptcy Board of India (hereinafter referred to as "Board") appointed one Dr. K. Lakshmi Narasimha, Ph.D as 'Interim Resolution Professional', without any such suggestion from the 'Operational Creditor' or the Board. Taking into consideration the aforesaid submissions, notices were issued on the respondent, particularly to decide whether the Adjudicating Authority of his own has jurisdiction to appoint an 'Interim Resolution Professional'/ 'Resolution Professional', if no such powers is specifically vested under the 'I&B Code'.

4. On notice, the respondent has appeared and accepted that the 'Interim Resolution Professional' was not appointed on the suggestion made by the 'Operational Creditor'. He further submits that parties have reached the settlement in writing which is binding on the parties.



5. From the record we find that a sub-contract works agreement was reached between the parties. The scheduled completion date in relation to works of agreement dated 19<sup>th</sup> April, 2011 was 31<sup>st</sup> December, 2012. According to appellant, the respondent/applicant failed and ignored to complete the agreement works by that date. The respondent/applicant continued the works till May, 2014 and executed only 78% of the agreement value of works and had wilfully abandoned the works w.e.f May, 2014.

6. From the aforesaid fact not disputed by respondent, it is clear that there was a dispute in existence prior to issuance of demand notice under sib-section (1) of Section 8 of the 'I&B Code' and for that the application under Section 9 of the 'I&B Code' was not maintainable.

7. Prima facie, we are of the opinion that as the 'I&B Code' do not empower the Adjudicating Authority to suggest any name or appoint any 'Interim Resolution Professional'/Resolution Professional of its own choice. However, as we find that the parties have settled the dispute and initiation of Resolution process under section 9 of the 'I&B Code' was not maintainable, in view of existence of dispute, we leave the question open as to whether the Adjudicating Authority has power to appoint any person of its own choice or not which will be decided in an appropriate case.



8. We have already held that application under Section 9 was not maintainable, in view of existence of dispute and that parties have already reached the settlement, for the reasons aforesaid, we set aside the impugned order dated 10<sup>th</sup> October, 2017 passed by Adjudicating Authority, Hyderabad Bench in Company Petition (IB) No/45/09/HDB/2017.

9. In effect, order (s), passed by Ld. Adjudicating Authority appointing 'Interim Resolution Professional', declaring moratorium, freezing of account, and all other order (s) passed by Adjudicating Authority pursuant to impugned order and action, if any, including the advertisement, if any, published in the newspaper calling for applications and all such orders and actions are declared illegal and are set aside. The application preferred by Respondent under Section 9 of the I&B Code, 2016 is dismissed. Learned Adjudicating Authority will now close the proceeding. The appellant company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect.

10. As Dr. K Lakshmi Narasimha, Ph.D was appointed as 'Interim Resolution Professional' could not function in view of the interim order of stay passed by this Appellate Tribunal on 18<sup>th</sup> October, 2017, therefore, the question of payment to the 'Interim Resolution Professional' does not arise. The appeal is allowed and I.A also stands



disposed of with aforesaid observation and direction. However, in the facts and circumstances of the case, there shall be no order as to cost.

**FREE OF COST COPY**

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

Sd/-  
(Justice S.J. Mukhopadhaya)  
Chairperson

Sd/-  
(Justice Bansilal Bhat)  
Member(Judicial)

Ar/uk

Registrar  
National Company Law Appellate Tribunal  
New Delhi

26/10/17

