

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH, KERALA**

**IBA/13/KOB/2020**

*(Under Section 7 of the IBC read with Rule 4 of the IBC (AAA) Rules, 2016)*

**Order delivered on: 24.09.2020**

**Coram:**

**Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)**

**In the matter of:**

M/s Sri Ramani Resorts and Hotels Pvt.Ltd.  
Registered Office at  
8/42, Maharaja Surya Road, Alwarpet,  
Chennai-600018.

**...Applicant/Financial Creditor**

Versus

M/s Sree Bhadra Parks and Resorts Limited  
27/480(1), Museum Road,  
Chembukkavu,  
Thrissur, Kerala -680 020.

**.... Respondent/Corporate Debtor.**

**Parties present: (through Video Conferencing)**

For Operational Creditor                      .. Ms. Jayanthi K. Shah, Advocate

For Corporate Debtor                      ..... Mr. P.V.George (Puthiyedam), Advocate

**ORDER**

This is an application filed by **M/s Sri Ramani Resorts and Hotels Pvt. Ltd.** (hereinafter called "Financial Creditor") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against **M/s Sree Bhadra Parks and Resorts Ltd.** (hereinafter called "Corporate Debtor") alleging that

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Corporate Debtor committed default in making payment of ₹4,25,32,016.405/-, invoking the provisions of Section 7 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter called as "Rules").

2. In the application, it is stated by the Financial Creditor that financial creditor entered into a share purchase agreement with the Corporate Debtor on 21.11.2012 to purchase 100% shares of the Corporate Debtor for a total consideration of ₹**33,08,00,000/-**. Consequently, on the date of agreement, the financial creditor paid an advance of ₹1,00,00,000/- to the Corporate Debtor. The Corporate Debtor acknowledged the debt from time to time vide their letters dated 05.09.2014, 17.03.2015, 28.11.2018 and reply notice dated 31.01.2018 wherein the liability is not denied. Hence, a sum of ₹4,25,32,016.405/- (=4,25,32,016.40) along with interest @24% per annum stands due as on date.

3. The Corporate Debtor filed its reply and raised various contentions opposing the application.

4. However, after considering the rival contentions and hearing both parties, this Tribunal admitted the application vide order dated 25.8.2020 appointing Mr. Amier Hamsa Ali Abbas Rawther having Registration No.IBBI/IPA-001/IP-P01727/2019-2020/12620 as the Interim Resolution Professional.

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5. Now the Corporate Debtor namely M/s Sree Bhadra Parks and Resorts Limited filed an application under Rule 11 of the NCLT Rules to recall the order passed by this Tribunal on 25.8.2020 in IBA/13/KOB/2020 and permit them to settle the matter. Along with the application "Form FA" for withdrawal of Corporate Insolvency Resolution Process has been filed, duly signed by the applicant in IBA No.13/KOB/2020 M/s Sri Ramani Resorts and Hotels Pvt. Ltd. stating that on 26.8.2020 settlement has been arrived for a total sum of **Rs. 2,25,00,000/- (Rupees two crores twenty-five lakhs only)** as full and final settlement of the entire claim between the Corporate Debtor M/s Sree Bhadra Parks and Resorts Limited on the following terms:

(a) M/s Sree Bhadra Parks and Resorts Limited have paid a sum of Rs. 1,00,000/ on 26.8.2020.

(b) Cheque dated 10.9.2020 bearing No.214323 for Rs. 10,00,000/- was given. However, returning the said cheque M/s Sree Bhadra Parks and Resorts Limited has made an electronic transfer through RTGS of Rs. 10,00,000/- to the account of M/s Sri Ramani Resorts and Hotels Pvt. Limited on 10.9.2020.

© A cheque dated 30.11.2020 bearing No.214322 for Rs. 2,14,00,000/- drawn on South Indian Bank Limited, Kaniyakumari Main Branch is yet to be encashed and can be done only on 30.11.2020.

6. It is further stated that the balance amount of settlement of Rs. 2,14,00,000/- arrived between the parties is only for this settlement and if the Corporate Debtor fails to pay the said sum on or before 30.11.2020 then M/s Sri Ramani Resorts and Hotels Pvt. Ltd. shall be at liberty to file fresh application with actual amount i., Rs. 4,25,32,016.405 along with 24% interest per annum stand due as on date. The Committee of Creditors is not

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yet constituted and that since the matter is settled between the parties, it is not necessary to pursue the matter any more. Hence the applicant would like to withdraw the application IBA/13/KOB/2020 filed under Section 7 of IBC, with liberty to file fresh application, if the settlement agreement as above is not complied with by the Corporate Debtor. It is also stated that the expenses of the IRP have already been paid.

7. The IRP through mail dated 24.9.2020 informed this Tribunal that he has been paid his fees by the parties and that no amount due to be paid to him.

8. In view of the settlement arrived between the parties by filing Form FA before this Tribunal and that the IRP stated that he has received his fees, the **IBA/13/KOB/2020 stands disposed of**. However, the applicant is at liberty to file fresh application, if the Corporate Debtor has not complied with the conditions stipulated in the settlement as mentioned in Form FA.

Dated the 24<sup>th</sup> day of September, 2020

**Sd/-**  
**(Ashok Kumar Borah)**  
**Member (Judicial)**