

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

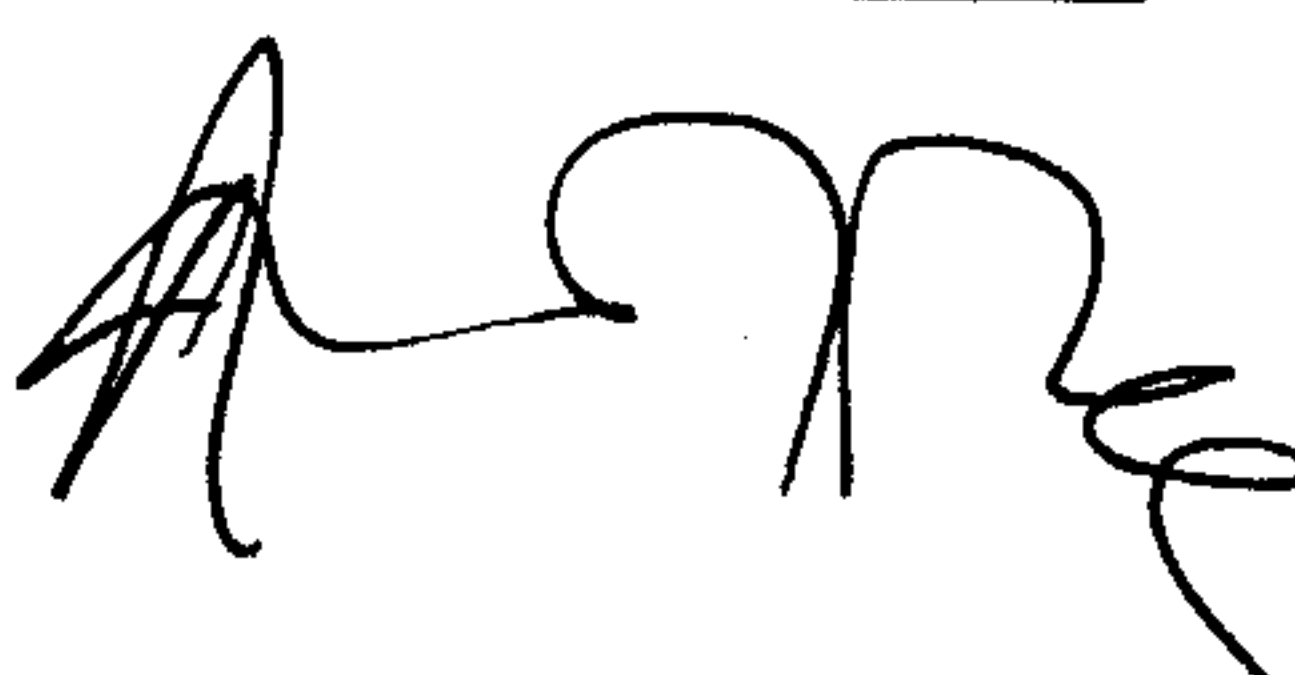
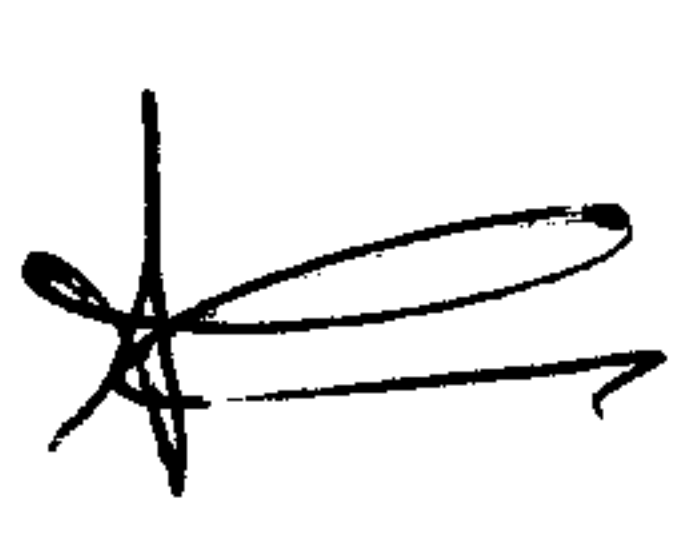
C.P.(I.B) No. 670/NCLT/AHM/2019

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 16.03.2020**

Name of the Company: Devesh S Amin  
V/s  
Kalon Beauty & Healthcare Services LLP

Section : Section 9 of the Insolvency and Bankruptcy Code

| S.NO. | NAME (CAPITAL LETTERS)              | DESIGNATION | REPRESENTATION      | SIGNATURE                                                                             |
|-------|-------------------------------------|-------------|---------------------|---------------------------------------------------------------------------------------|
| 1.    | ANMOL A. MEHTA<br>(FOR A. S. LIKIL) | ADVOCATE    | QC                  |  |
| 2.    | Dhanya Chahy<br>for Tirth Nayah     | Adv.        | Deputy<br>Represent |  |

**ORDER**

The parties are represented through learned counsels.

The Order is pronounced in the open court vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU**  
MEMBER TECHNICAL  
Dated this the 16th day of March, 2020

  
**MANORAMA KUMARI**  
MEMBER JUDICIAL

**BEFORE ADJUDICATING AUTHORITY (NCLT)  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. (IB) 670/9/NCLT/AHM/2019**

**In the matter of:**

**Mr. Devesh S. Amin**  
11, Niyojan Nagar  
Nr. Manekbaug Hall  
Ambawadi  
AHMEDABAD

:

**Petitioner**  
Operational Creditor

**Versus**

**M/s. Kalon Beauty and Healthcare Services LLP**  
3 F F Indraprasth Corporate  
Opp. Venus Atlantis  
Besides Safal Pag  
Prahladnagar  
AHMEDABAD 380 015  
Gujarat State

:

**Respondent**  
Corporate Debtor

**Order delivered on 16<sup>th</sup> March, 2020.**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**  
**Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:**

Advocate Mr. Anmol A. Mehta for advocate Mr. A.S. Vakil for  
petitioner  
Advocate Mr. Tirth Nayak for advocate Mr. Ankit Talsania for  
respondent

**ORDER**

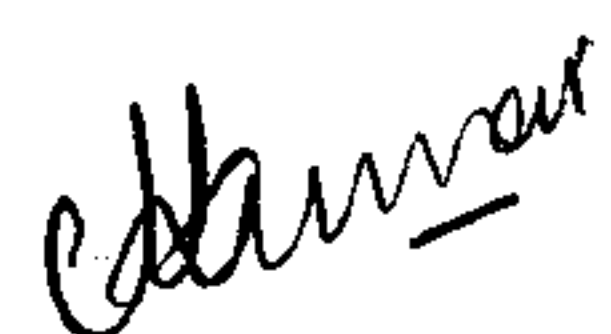
**[Per: Ms. Manorama Kumari, Member (Judicial)]**

1. The instant application is filed by **Mr. Devesh S. Amin** under Section 9 of The Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] read with Rule 6 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 [hereinafter referred to as "the Rules"], as operational creditor/applicant.

*Chockalingam*

*Manu*

2. The respondent/corporate debtor is a firm incorporated on 22.08.2017 having identification/PAN No. AAK-3705 and having registered office at Ahmedabad, Gujarat State.
3. The applicant/operational creditor is a contractor and working as a Civil Engineer for the last 35 years. The operational creditor undertakes construction/renovation/repairs of bungalows, schools and private offices engaging masons, carpenters, painters, electricians, labourers etc. and supervises such work. That, in the month of August/September 2017 the corporate debtor had approached the operational creditor to carry out renovation work involving masonry, carpentry, painting, electrical etc. at the registered office of the corporate debtor and the operational creditor had deputed various agencies like electrician, masons, carpenters etc. to carry out the renovation work.
4. For the supervision/co-ordination work carried out by the operational creditor at the office of the corporate debtor, the operational creditor had raised invoices dated between 03.10.2017 and 21.01.2018 totally amounting to Rs. 11,05,716/-, against which the corporate debtor had made payment of total Rs. 9,60,000/- between 19.09.2017 and 22.01.2018. According to the operational creditor, an amount of **Rs. 1,45,716/- (Rupees one lac forty-five thousand seven hundred sixteen only)** is still due and outstanding towards the operational debt.
5. It is further stated by the operational creditor that despite several personal visit to the office of the corporate debtor having failed to receive the aforesaid operational debt, demand notice under section 8 of the I & B Code was issued on 09.01.2019 which was delivered to the corporate debtor



on 12.01.2019. That, corporate debtor has not replied to the said demand notice. Therefore, this petition.

6. In support of its claim, the operational creditor has annexed to the application, copy of demand notice, copy of ledger account, copy of letter cum invoice etc.

### **Findings**

7. Heard the counsels appearing for both the sides and perused the documents annexed to the application.
8. On perusal of the records it is found that the corporate debtor has not filed any reply to the petition. On perusal of the records it is also found that from 21.10.2019, on the behest of both the parties, the matter got adjourned for settlement and the respondent has not filed reply on the garb of settlement.
9. On perusal of the record it is found that the demand notice issued by the operational creditor on 09.01.2019 is incomplete and it is not as per the format prescribed under the Insolvency and bankruptcy (Application to Adjudicating Authority) Rules, 2016.
10. On perusal of the records it is found that the operational creditor has not filed any document like appointment letter/contract in support of his claim that he was engaged by the corporate debtor to perform duties of a supervisor.
11. One must keep in mind that Insolvency & Bankruptcy Code is not a recovery process. Recovery is an individual effort by a creditor to recover his dues through a process that has

*Shakunger*

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debtor and creditor on opposite sides. In fact, the I & B Code prohibits and discourages recovery in several ways.

12. On perusal of the records it appears that the operational creditor intentionally filed this application with some malicious intent so as to pressurise the corporate debtor, where the legislation intention is purely based on the resolution of the company. That, the operational creditor also failed to show that the corporate debtor is insolvent.
15. Under the facts and circumstances as discussed herein above, the application, so filed by the applicant is not maintainable and, therefore, stands dismissed.



**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**



**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

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