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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
COURT-III**

**IB-1004/ND/2019** filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Sub Rule (1) of Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

*In the matter of **M/s. Compare Infobase Limited.***

**Harish Kumar and Ors.**

...Operational Creditors

Versus

**M/s. Compare Infobase Limited**

...Corporate Debtor

Order delivered on 27<sup>th</sup> November 2019

CORAM:

CH. MOHD. SHARIEF TARIQ,  
Member (Judicial)

KAPAL KUMAR VOHRA,  
Member (Technical)

*For the Operational Creditor:* Mr. Arvinder Singh Kindra, ACS

*For the Corporate Debtor:* Mr. G.P Madaan, Mr. Utkarsh Mishra and  
Ms. Pankhuri kaur Rehsi, (Advocates)

## ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J):

1. The present Application has been filed by the Operational Creditors ('OCs') jointly being falling in the category of employees /workmen that is permitted under note to Form V of sub-rule 1 of Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority), Rules, 2016. The first Applicant is Mr. Harish Kumar, Assistant Manager –Accounts, second applicant is Ms. Sangeeta Sharma, Deputy Manager – Human Resources and the third applicant is Miss. Lalita Parmar, former Assistant Manager – Accounts. The First Applicant is the Power of Attorney holder of Second and third Applicants which is placed on record. The Applicants had joined the Corporate Debtor ('CD') viz. M/s Compare Infobase Ltd., w.e.f. 1<sup>st</sup> May, 2003, 15<sup>th</sup> May, 2007 and 1<sup>st</sup> October, 2005 respectively. The appointment letters are placed on record. The first applicant Mr. Harish Kumar resigned on 3<sup>rd</sup> September, 2018, and the resignation was accepted on 4<sup>th</sup> October, 2018 and was relieved from service on 29.09.2018. The second applicant Mrs. Sangita Sharma resigned on 31.08.2018, her resignation was accepted on 28.09.2018 and she was relieved on 28.09.2018. The third applicant Ms. Lalita former Assistant Manager resigned on 03.09.2018 and her resignation was accepted on 28.09.2018 and she was relieved on 3.10.2018. The resignation letters, acceptance of the same and relieving letters are placed on record.

2. It is contended that the OCs were not paid their Salaries, Gratuity, Leave Encashment and Retention Bonus. The OCs have given legal notice to the CD on 10.01.2019 through the legal representative Mr. Arvinder Singh Kindra, Managing Partner, Navneet K Arora & Co. LLP. The claim made in the notice is given in a tabular form with break-up of amount due to each of the applicants as under:

Sl.No	Salary	Claim Amount of Mr. Harish Kumar	Claim Amount of Ms. Sangeeta Sharma	Claim Amount of Ms. Lalita Parmar
1	August 2018	39,797	28,856	-
2	September 2018	38,470	27,894	37,143
3	October 2018	-	-	3,714
4	August 2017	14,797	-	12,142
5	Gratuity	1,43,653	1,01,538	1,16,250
6	Leave Encashment and Retention Bonus	9,960 25,000	10,133 25,000	4,133 25,000
7	Tentative amount of Interest from the date of resignation till 31 <sup>st</sup> January, 2019	24,000	11,605	12,000
	<b>Total</b>	2,95,677	2,05,026	2,10,382

3. The CD has given reply on 25.01.2019 to the legal notice of the OCs, wherein it is stated that contents of the notice could not be verified to its entirety. It was specifically stated in the reply that CDs' record does not conform that first and third applicant joined in the CD on the dates given. However, it is pertinent to note that under para 7 of the reply to the legal notice, the CD has stated as follows:

*"..... To ascertain the amounts of FNF (Full and final settlement) and to discuss some other issues pertaining to your client's handing over, separate meetings were planned in the*

*month of December, 2018. Unfortunately, the proposed meetings were called off in the eleventh hour due to illness of one of our personnel, who was required to be present in the meetings. Our company did try to reschedule the meetings in the following week but failed to do so largely due to non-availability of your clients in the following week.”*

It is observed that the CD while giving reply to the legal notice issued by the OCs has not denied specifically the liability with regard to the payment of Salary, Gratuity, Leave Encashment, Retention Bonus and Interest due on the delayed payments.

4. On 18.02.2019, the Applicants/OCs have sent individual notice under Section 8 of the I&B Code, 2016 as prescribed under clause (a) of sub-rule (1) of Rule 5 of the Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016. On 14.03.2019 the CD, gave the replies after the lapse of 10 days, wherein counter allegations were levelled and claims raised against the Applicants/OCs. However, the OCs have denied the allegations and claims. The OCs have filed the affidavit in compliance of Section 9(3) (b) of I&B Code, 2016, stating that the CD has not served any notice in relation to dispute of the unpaid operational debt. It is submitted by the counsel for the OCs that the allegations and demands have been raised which are afterthought, as during the course of employment or at the time of issue of relieving letters to the OCs, no such dispute was raised and no allegations were levelled. The allegations or purported disputes are not supported with any documentary proof.

5. The CD has filed the reply through one of its Directors Mr. Thakur Vishwaranjan Kumar Sinha and submitted that the instant application seeking initiation of Corporate Insolvency Resolution Process ('CIRP') against the CD is wholly wrong, infructuous, misconceived, baseless and untenable. It is contended by the CD that a single application is filed jointly by the OCs; thereby making the Application infructuous as per the provisions of the Code and the present application suffers from a misjoinder of parties and cannot be

adjudicated in its present form. The CD further contended that the OCs did not duly serve the notice under Section 8 of the I&B Code, 2016. It is further stated that a false affidavit confirming service of the notice on the CD was filed and the affidavit filed under Section 9(3) (b) of the Code is not disclosing the fact of pre-existing dispute and tension between the CD and the OCs. However, the OCs has admitted service of the legal notice issued by the OCs on 10.01.2019 and the reply given by the CD on 25.01.2019. The CD issued notices on 15.02.2019 to the OCs for serious misconduct and misuse of their position, causing wrongful loss and damage to the company. Based on this, it is stated in the reply that this authority does not have the jurisdiction to entertain civil recovery suits/ and prayed to dismiss the Petition with exemplary costs.

6. Heard both the sides, perused the pleadings along with the record placed on the case file. The factum of appointment of the OCs established from the appointment letters given by the CD on 01.05.2003, 15.05.2007 and 01.10.2005 and issued their relieving letters on 29.09.2018, 28.09.2018 and 03.10.2018. It is noted that neither during the employment nor at the time of giving relieving letters to the OCs any dispute was raised by the CD and even in reply to the legal notice dated 10.01.2019, the liability has not been denied by CD. In reply to the legal notice dated 10.01.2019, the CD has recorded under para 7 that the amount of FNF is to be ascertained and some discussions were to be made on the issue pertaining to handing over but the meeting has been called off by the CD at the eleventh hour. It appears that the CD on receiving the legal notice that was issued by the OCs on 10.01.2019 has started to become alert and even denied the fact of the employment of the OCs vide its reply dated 25.01.2019. In order to counter the claim of the OCs, the CD has started giving notices to the OCs for serious mis-conduct and mis-use of position. CD even raised counter claims and indicated to initiate action against them for defamation. The CD has gone to the extent to state that Mr. Harish Kumar has picked up some files, cash amount of Rs.2.30 lakhs and personal gold of Mr. Simaprit on 10.08.2018, but no FIR lodged. In short, the allegations levelled by the CD in the notices issued

on 15.02.2019 and thereafter are not substantiated with any documentary proof. The issue with regard to pre-existing dispute as raised by the CD is after thought, mere bluster and spurious in nature. The same stands rejected.

7. In the light of the discussions made above, the Application of the OCs deserves to be admitted. The OCs have fulfilled all the requirements of law. The OCs have proposed the name of the Insolvency Resolution Professional ('IRP') after seeking his consent. There is no disciplinary proceeding pending against the IRP as is evidenced from Form-2, which is placed on record. The Address, e-mail and other details of the IRP are as follows:

**Mr. Navneet Arora**

Managing Partner, Navneet K Arora & Co LLP,  
Company Secretaries

Reg No.: IBBI/IPA-002/IP-N00128/2017-18/10345,

Address: E-8/1, LGF, Near Geeta Bhawan Mandir,

Malviya Nagar, New Delhi-110017,

E-mail: info@navneetaroraacs.com

Mobile No.: 9810328141

8. In the light of the above, this authority is satisfied that there is debt due and payable and the CD has defaulted in making the payment to the OCs. Therefore, the application filed by OCs is **admitted**, and the commencement of the CIRP is Ordered which ordinarily shall be completed within 180 days, reckoning from the day this Order is passed.

9. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the I&B Code, 2016. It is Ordered to prohibit all of the following, namely: -

- (a) The institution of suits or continuation of pending suits or proceedings against the CD 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 CD 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 CD in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the CD.

10. The supply of essential goods or services of the CD shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

11. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim in the manner as prescribed. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of I&B Code, 2016. The Directors of the CD, its Promoters or any person associated with the Management of the CD are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

12. The OC and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the CDs' assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.

13. The Registry is directed to communicate this Order to the OC and the CD also with immediate effect.

14. There is no Order as to cost. The Order is pronounced in the open court.



**(K.K. VOHRA)**  
MEMBER (TECHNICAL)



**CH. MOHD. SHARIEF TARIQ**  
MEMBER (JUDICIAL)