



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CP (IB) No.1233/MB-IV/2022

Under Section 9 of the I&B Code, 2016

In the matter of:

Minoo Karkaria

...Financial Creditor/Applicant
V/s

Spenta Enclave Private Limited

[CIN: U45209MH2013PTC249304]

...Corporate Debtor/Respondent

Order Dated: 29.03.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Ms. Natasha Bhot, Advocate.

For the Respondent(s) : Mr. Jamsheed Master a/w Mr.
Declan Fernandez i/b Purazar
Fouzdar, Advocates.

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This is an application bearing C.P. (IB) No. 1233/MB-IV/2022 filed by Minoo Karkaria, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Spenta Enclave Private Limited, Corporate Debtor.



2. The Application is filed by Mr. Minoo Karkaria, a sole proprietor of M/s. Butterfly, claiming total outstanding amount of Rs.1,05,37,169/- (Rupees one crore five lakh thirty-seven thousand one hundred sixty-nine only).
3. The Date of Default is stated to be 05.04.2022 in Part-IV of the Petition. The Petition is filed on 04.08.2022 which is within the period of three years from the Date of Default.
4. The Corporate Debtor had sought the service of the Operational Creditor in their project known as 'Alta Vista' in Chembur, Mumbai vide work order dated 16.03.2019. The Corporate Debtor has given the confirmation of the completion of work.
5. The Corporate Debtor has filed its Affidavit-in-reply 30.11.2022 disputing the claim and inability to pay the dues.
6. We heard both the Counsels and perused the material on record.
7. It is observed that, this Adjudicating Authority has admitted the Corporate Debtor into CIRP in C.P. (IB) No. 389/MB/C-IV/2022 filed under section 7 of Code vide order dated 24.03.2023. In view of this, the present Company Petition is liable to be dismissed as infructuous.

ORDER

8. The petition bearing CP (IB) 1233/MB-IV/2022 filed by Minoo Karkaria, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against Spenta Enclave Private Limited, Corporate Debtor, is hereby **Dismissed as Infructuous**.



9. The Operational Creditor may file its claim before the Interim Resolution Professional as per the Law.
10. It is clarified that we are not deciding on the merits of the case, which shall be adjudicated in case present application stands restored later on.

Sd/-
Prabhat Kumar
Member (Technical)

29.03.2023

Sd/-
Kishore Vemulapalli
Member (Judicial)