

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 05/I & BP/NCLT/MAH/2017**

Coram: B.S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)

In the matter of under Section 9 of Insolvency and Bankruptcy Code, 2016 and under Rule 6 of the Insolvency & Bankruptcy (Application to adjudicating Authority) Rule, 2016 and Rules made thereunder:

And

Astra Offshore Sdn Bhd. Operational Creditor

V/s.

Swiber Offshore (India) Pvt. Ltd. Corporate Debtor

Applicants' Counsel: Mr. Ashwin Shanker, Advocate Operational Creditor

ORDER

(Heard & Pronounced on 30.01.2017)

The Petitioner/ Operational Creditor filed this Creditor Petition u/s 9 of Insolvency and Bankruptcy Code without filing certificate from the Financial Institution maintaining Accounts of the Operational Creditor confirming that there is no payment of this unpaid operational Debt by the Corporate Debtor as set out in (c) of Subsection (2) of Section (9) of this Code 2016.

Looking at non-filing of the certificate that is required to be filed along with this petition, this bench had already given time to furnish the said document, but the counsel failed to furnish the said certificate. When this Bench has put it to the petitioner counsel how this Bench could pass this order without furnishing the certificate mandatorily to be filed along with the petition, the Counsel appearing on behalf of the Operational Creditor submits that it is impossible to file copy of such Certificate from the Financial Institution for the Bank of the operational creditor is situated outside India, therefore, the compliances with such requirements shall be exempted.

On perusal of Section 9 of Insolvency and Bankruptcy Code, it is evident, that it is mandatory to file copy of the Certificate from the Financial Institutions

reflecting non-payment of the operational debt impugned, for the Operation Creditor has failed to annex copy of the said Certificate as required u/s 9(3)(c) of the Code, this petition is liable to be rejected.

Accordingly, the same is hereby rejected.

Sd/-

B. S.V. PRAKASHKUMAR
Member (Judicial)

Sd/-

V. NALLASENAPATHY
Member (Technical)