

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 12.02.2020

**PRIORITY CAUSE LIST – 1**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Shri Ashutosh Chandra

| CP/CA No.                 | Purpose    | Sec                          | Name of Petitioner                     | Petitioner Advocate | Name of Respondent                                | Respondent Advocate       |
|---------------------------|------------|------------------------------|--|---------------------|---|---------------------------|
| CP(IB) No.<br>185/BB/2019 | For orders | Sec 7 of<br>I&B code<br>2016 | M/s Shri<br>Subhash A Goge<br>& others | Dua<br>Associates   | M/s Expat<br>Projects &<br>Development<br>Pvt Ltd | Uday Shankar,<br>advocate |

*Shri Mohammed SHAMEER*  
9980528184

ADVOCATE FOR PETITIONER/s:

*8*

ADVOCATE FOR RESPONDENT/s:  
ASMITA DESHPANDE  
Uday Shankar Asete

*Deshpande*

**ORDER**

Heard Shri Mohammed Shameer, learned Counsel for the Petitioners and Ms. Asmita Deshpande, learned Counsel for the Respondent.

C.P. (IB) No.185/BB/2019 is disposed of as withdrawn by separate order.

*3/2*

**Member (T)**

Krishna

*3/2*

**Member (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P. (IB) No.185/BB/2019  
U/s 7 of IBC, 2016  
R/w Rule 4 of I&B (AAA) Rules, 2016

**IN THE MATTER OF:**

1. Shri Subhash Ambanna Goge  
Flat No.F-3, Shivshakti Apartment,  
Kamatha, Uran,  
Navi Mumbai.      & 8 others      -      Petitioners/Financial Creditors

**Versus**

Expat Projects and Development Pvt. Ltd.  
Regd. Off: Carlton Towers,  
A-Wing, 3<sup>rd</sup> Floor, Unit Nos.301-304,  
No.1 Old Airport Road,  
Bengaluru – 560 008.      -      Respondent/Corporate Debtor

**Date of Order: 12<sup>th</sup> February, 2020**

**Coram:**      1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
                  2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Petitioners            :      Shri Mohammed Shameer  
For the Respondent            :      Ms. Asmita Deshpande

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.185/BB/2019 is filed by Shri Subhash Ambanna Goge and eight others (hereinafter referred to as 'Petitioners/Financial Creditors') under Section 7 of the IBC, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter



alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Expat Projects and Development Private Limited (hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default for a total amount of Rs.97,81,150/- (Rupees Ninety Seven lakhs Eighty One Thousand One Hundred Fifty only) comprising of the Principal amount of Rs.64,85,641/- (Rupees Sixty Four Lakhs Eighty Five Thousand Six Hundred and Forty One only) and the overdue interest @ 12% per annum as on 31.01.2019 i.e. Rs.32,95,509/- (Rupees Thirty Two Lakhs Ninety Five Thousand Five Hundred and Nine only).

2. The case was listed for admission on various dates viz. 03.06.2019, 24.06.2019, 16.07.2019, 25.07.2019, 05.08.2019, 19.08.2019, 30.08.2019, 01.10.2019, 11.10.2019, 21.10.2019, 08.11.2019, 13.11.2019, 25.11.2019, 09.12.2019, 16.12.2019, 13.01.2020, 27.01.2020 and 03.02.2020. And it was adjourned on those dates at the request of Parties, on one ground or the other, including to serve the notice and exploring the possibility of settlement of the issue, etc.
3. Heard Shri Mohammed Shameer, learned Counsel for the Petitioners, and Ms. Asmita Deshpande, learned Counsel for the Respondent. We have carefully perused the pleadings of both the Parties and extant provisions of the Code and the Rules made thereunder.
4. Shri Mohammed Shameer, learned Counsel for the Petitioners submits that the Petitioner may be permitted to withdraw the instant Petition, subject to compliance of the terms and conditions as mentioned in the Joint Memo for Settlement dated 03.02.2020 (which is taken on record), which inter alia reads as under:



*“2. That the Financial Creditor Nos.1 to 9 and the Corporate Debtor have agreed to resolve their dispute amicably on following terms:*

- a. That the Corporate Debtor herein has agreed to make payment of Rs.64,87,650/- (Rupees Sixty Four Lakhs Eighty Seven Thousand Six Hundred Fifty only) to Financial Creditor Nos.1 to 9 as per the Schedule given in Annexure-A as against the individual claim of each of the Financial Creditor and the Financial Creditor Nos.1 to 9 have agreed to take the same as full and final settlement.*
- b. That the parties shall not make any claims interse in respect of the Token Receipts cum Agreements mentioned supra.*
- c. That the Financial Creditors herein shall not make any further claims against the Corporate Debtor before any other Forum or Court.*
- d. That in the event Corporate Debtor fails to pay the agreed amounts or any part thereof as per the timelines provided in Annexure-A, Financial Creditors shall be entitled to seek legal remedies before the appropriate court/tribunals etc. for claiming the entire outstanding due (the claim amount in CP (IB) No.185/ BB/2019) against the Corporate Debtor and the provisions of this Memo shall cease to be applicable.”*

5. Ms. Asmita Deshpande, learned Counsel for the Respondent confirmed that they have settled the issue between themselves, and executed the Joint Memo for Settlement dated 03.02.2020, and both the parties are bound by the terms and conditions as mentioned in the said Joint Memo.
6. Since the Company Petition is not yet admitted and the Parties have settled the issue between themselves, we are inclined to dispose of the instant Petition subject to compliance of the terms and conditions as mentioned in the Joint Memo for Settlement dated 03.02.2020.



7. In the result, C.P. (IB) No.185/BB/2019 is disposed of as withdrawn by directing the Respondent to strictly adhere to the terms and conditions of payment as mentioned in the Joint Memo for Settlement dated 03.02.2020, without any deviation, failing which, the Petitioner is entitled to file a fresh Company Petition for initiating CIRP, in accordance with law. No order as to costs.



**ASHUTOSH CHANDRA  
MEMBER, TECHNICAL**



**RAJESWARA RAO VITTANALA  
MEMBER, JUDICIAL**

Krishna