

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI**

**CP. (IB) No. 6/GB/2021**

**Coram: Hon'ble Shri H.V Subba Rao, Member (J) : Hearing through  
Hon'ble Shri Prasanta Kumar Mohanty, Member (T) : Video Conferencing**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL COMPANY  
TRIBUNAL, GUWAHATI BENCH ON 09/09/2021**

Name of the Company: 1. Centralised Business Solutions Pvt. Ltd and  
2. Mr. Samarendra Bhattacharya ..... Applicants  
V/S  
Chandrali Builders and Developers Private Limited ..... Corporate Debtor

**Section** : Under section 9 of the Insolvency and Bankruptcy Code, 2016.

<b>S.No.</b>	<b>NAME (CAPITAL LETTERS)</b>	<b>DESIGNATION</b>	<b>REPRESENTATION</b>	<b>SIGNATURE</b>
1.	NONE	Advocate	Petitioner	Present in video
2.	NONE	Advocate	Respondent	Conference

**ORDER**

The Applicant is represented through respective Learned Counsel (s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, Through Video Conferencing vide separate sheet.

**Sd/-**

**(PRASANTA KUMAR MOHANTY)  
MEMBER (T) &  
ADJUDICATING AUTHORITY**

**Sd/-**

**(HARI VENKATA SUBBA RAO)  
MEMBER (J) &  
ADJUDICATING AUTHORITY**

## **ORDER**

**[Per se: Prasanta Kumar Mohanty, Member (T)]**

1. The present petition has been preferred by the Applicants/Operational Creditor, Centralized Business Solutions Private Limited (Applicant 1) and Mr. Samarendra Bhattacharya Proprietor/Authorized Signatory of Samriddhi Wealth Creation (Applicant 2) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as a "Code") seeking for initiation of Corporate Insolvency Resolution Process ("CIRP" in short) in respect of the Corporate Debtor Company, namely, M/s Chandrali Builders and Developers Private Limited Private Limited.
2. The Petitioner/Operational Creditor namely Centralized Business Solutions Private Ltd. (Applicant 1) is having its Registered Office at 1, Graham Road, Tollygunge, Ground Floor, Kolkata- 700040 and Mr. Samendra Bhattacharya (Applicant 2) having his registered address at 48/22A, South Sinthee Road, Kolkata 700050.
3. It is submitted that the Operational Creditor is involved in the main business of Financial Consulting and Advisory as mentioned in the Memorandum and Articles of Association of the Company which is annexure herewith as **"ANNEXURE-III"**.
4. The Respondent/ Corporate Debtor, namely Chandrali Builders and Developers Private Limited, was incorporated on 2<sup>nd</sup> December, 2016 with CIN-U45309AS2016PTC017670. The Registered Office of the Corporate Debtor is situated at: Ukilpatty, Silchar-1, Cachar, Assam- 788001, India.
5. That an agreement has been entered into between M/s Centralized Business Solutions Pvt. Ltd. and Mr. Samrendra Bhattacharya, Proprietor of Samriddhi Wealth Creation in capacity of Associate Partner dated 1<sup>st</sup> day of January, 2019. This work has been executed jointly based on this agreement and hence this joint application has been moved. A copy of agreement is attached herein and marked as **"Annexure- XI"**.
6. It is submitted by the OC that it is pertinent to mention here that the Corporate Debtor, having no major presence in the State of West Bengal had approached the

Operational Creditor for Project Finance of Rs.5,00,00,000.00 (Rupees Five Crores only) from their preferred institution, State Bank of India in favor of Chandrali Builders and Developers Private Limited for their Madhyamgram Project, namely "Chandrali Arcade" around 12<sup>th</sup> June, 2019. After detailed discussion with Corporate Debtor and on the basis of verbal agreement with one of the key Director, Mr. Ranadhir Basu and on his instruction a confirmation mail was sent on 19/06/2019 to Mr. Chandrajit Basu another key Director along with Proforma Invoice before taking up the assignment.

7. It is submitted by the Petitioners that the Respondent/ Corporate Debtor is indebted to the Petitioners for Rs.15,00,000 Plus GST (Rupees Fifteen Lakhs Plus GST @ 18%) effective from 18.12.2019 **relating to Professional Services rendered towards obtaining Administrative Approval of bank finance** for Project Finance of Rs.5,00,00,000/- from their preferred institution, State Bank of India in favor of Chandrali Builders and Developers Private Limited for their Madhyamgram Project, namely "Chandrali Arcade" around 12<sup>th</sup> June, 2019.

8. That the Operational Creditor has consistently and diligently devoted time and effort and has provided Professional Services **towards obtaining Administrative Approval of bank finance and thus payment of professional fees to the Operational Creditor as agreed before is rightly justified.**

9. Accordingly, the Operational Creditor sent demand notice dated 01.02.2020 u/s of Insolvency and Bankruptcy Code, 2016, along with copies of the work order with a request to pay the entire unpaid operational debt to the tune of Rs.15,00,000/- Plus GST @ 18% (Rupees Fifteen Lakhs Plus GST @ 18%) effective from 18.12.2019 with regard to Professional Services rendered **towards obtaining Administrative Approval of Bank Finance.** The Corporate Debtor despite being served the demand notice on 06.02.2020 has refused to accept the copy as sent to them and no dispute was raised as per the provisions of Section 5 (6) of the Insolvency and Bankruptcy Code, 2016. The copy of demand notice u/s 8 of Insolvency and Bankruptcy Code, 2016 dated 01.02.2020 served on 06.02.2020 is annexed herein and marked as "**Annexure-II**".

10. It is submitted by the Petitioner that the said amount are still outstanding and has remained unpaid till date. That as on date there is an outstanding amount of Rs.15,00,000.00 (Rupees Fifteen Lakhs) plus GST @ 18% p.a. from 18.12.2019 which is due and defaulted and payable by the Corporate Debtor (CD).

11. **It is submitted by the Applicant/Operational Creditor that the Corporate Debtor had refused to accept the documents as was being delivered to them.** The cause of action to file the instant application accrued on each and every date when the Operational Creditor requested the Corporate Debtor to make payment of the outstanding amount against Professional Services rendered towards obtaining **Administrative Approval of bank finance.** The cause of action further arose on 01.02.2020 when the Operational Creditor sent a demand notice to the Corporate Debtor which the Corporate Debtor refused to accept.

12. The Petitioner also submitted that several reminders have been sent for the outstanding payment which has been deliberately ignored by the Corporate Debtor and till date the said payment is outstanding.

13. The matter was taken up on 23/02/2021, 24/03/2021, 04/05/2021 & 29/07/2021.

### **ORDER**

14. **Heard the learned Counsel for the Petitioner and perused the documents submitted. It is found that there is no written agreement between the parties for the said services.**

**During the proceedings, the Counsel for Petitioner was asked to clarify about the reported service "Administrative Approval of Bank Finance" and whether the Petitioners are CA/CS/Cost Accountants. The Counsel for the Petitioner could not clarify about the said service "for obtaining Administrative approval of Bank Finance". He has also submitted that the Petitioners are neither CA nor CS/ Cost Accountant.**

**15. It is a fact that there is no such service named "obtaining Administrative Approval of Bank Finance". Loan Applicants used to submit the loan Applications to the Banks/lenders and Banks/Lenders may or may not sanction the loan depending upon the eligibility of the Loan Applicant/guidelines/conditions stipulated by the said Financial Institution/Bank. There is no one between the Applicant and the Lender/Bank. No middle man job is permitted.**

**Hence, we are of the considered view that this application filed under Section 9 of IBC needs to be rejected on the following grounds:**

- 1. There is no such service named "Obtaining Administrative Approval of Bank Finance" in existence and**
- 2. That the Petitioners have filed the Petition on the basis of verbal agreement only.**

**16. It is now clear that the Petitioners have made an attempt to misuse the process of IBC Proceedings by filing the application under Sec 9 of IBC 2016 for the reported service which is not in existence.**

**17. Hence this Application filed is hereby rejected as not maintainable under Section 9 of the IBC.**

**18. This Petition is rejected as not maintainable so as to no cost.**

**Sd/-**

**(PRASANTA KUMAR MOHANTY)  
MEMBER (T) &  
ADJUDICATING AUTHORITY**

*//td/D-09.09.2021//*

**Sd/-**

**(HARI VENKATA SUBBA RAO)  
MEMBER (J) &  
ADJUDICATING AUTHORITY**