

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

**C.P.(I.B) No.100/NCLT/AHM/2020**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 23.11.2020**

Name of the Company: Sanguine Management Services Pvt Ltd  
V/s  
Cengres Tiles Ltd

Section 7 of the Insolvency and Bankruptcy Code,  
2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

**ORDER**

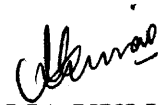
(Through Video Conferencing)

Advocate, Mr. Kunjal Dalal appeared on behalf of the respondent

The order is pronounced in the open court, vide separate sheet.



**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER (TECHNICAL)**



**MANORAMA KUMARI  
MEMBER (JUDICIAL)**

Dated this the 23rd day of November, 2020.

**BEFORE ADJUDICATING AUTHORITY (NCLT)  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. (IB) 100/7/NCLT/AHM/2020**

**In the matter of:**

**Sanguine Management Services Private Limited**

5, Kailash-B, Opp. Drive in Cinema  
Beside HDFC Bank, Nr. Asia School  
Drive in Road  
AHMEDABAD 380 054

:

**Petitioner**  
Operational Creditor

**Versus**

**Cengres Tiles Limited**

D/401, Ganesh Meridian,  
Opp. Amiraj Farm  
Nr. Gujarat High Court  
S.G. Highway  
AHMEDABAD 380 0601  
Gujarat State

:

**Respondent**  
[Corporate Debtor]

**Order delivered on 23<sup>rd</sup> November, 2020**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:**

Petitioner : Mr. Pranav Thakkar, Advocate  
Respondent : Mr. Kunjal Dalal, PCS

**ORDER**

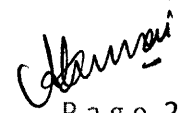
**[Per: Ms. Manorama Kumari, Member (J)]**

1. Mr. Badri Narayan Mahapatra, Director being authorised signatory, on behalf of **M/s. Sanguine Management Services Private Limited**, filed this petition under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.





2. The applicant/operational creditor is a private limited company having its registered office at Ahmedabad, Gujarat State having identification number U74140GJ2007PTC049929 engaged in management consulting, entry advisory, project management etc.
3. The respondent/corporate debtor is a private limited company registered under the provisions Companies Act, on 28.12.2007 and having identification No. U26914GJ2007PLC052480 and having registered office at Ahmedabad, Gujarat State. Authorised share capital of the respondent company is Rs.10,00,00,000/- and paid up share capital is Rs. 8,11,36,360/-.
4. The applicant/operational creditor has submitted that the respondent company had approached the applicant for availing temporary financial assistance for an amount of Rs. 1,00,00,000/- (Rupees one crore only) with an assurance the amount along with interest at the rate of 7% per annum as and when requested by the applicant. That, in or about November, 2019, the applicant had requested the respondent to repay a sum of **Rs. 1,10,87,114/- (Rupees one crore eighty-seven lacs one hundred fourteen only)** and the respondent had issued five cheques each of Rs. 20.00 lacs dated between 22.11.2019 and 28.11.2019 aggregate amounting to Rs. 1,20,00,000/-. That, all the five cheques were dishonoured.
5. The applicant has further submitted that despite several reminders the respondent has not paid the operational debt due and payable, therefore, this petition.
6. The applicant has further submitted that having failed to receive the operational debt due from the respondent



company, the applicant was compelled to issue demand notice by Registered A.D. dated 30.12.2019 through advocate calling upon the respondent to release the dues aggregating to **1,10,87,114/-**.

7. The applicant in support of its claim has furnished copy of documents like; affidavit in support of the application, affidavit under Section 9 (3) (b) of the IB Code, letter of confirmation from corporate debtor, notice dated 30.12.2019, ledger account, payment detail and interest calculation, copy of bank statement, copy of cheque return memo, Board resolution dated 20.12.2019 etc.
8. The respondent filed affidavit in reply inter alia raising objections like; the petitioner has failed to produce any documents evidencing the default, the petitioner company has been incorporated to undertake management service activity and trading activity and, therefore, not entitled to provide financial assistance to other entities, the petitioner company has not produced any registration of license or registration under Gujarat Money Lenders Act, 2011 or as non-banking financial company, pre-requirement for initiation of corporate insolvency resolution process that there should be a debt and default and the petitioner has not produced any request letter/application from corporate debtor for financial assistance, agreement or contract giving details of terms and conditions as regards interest repayment, no acknowledgement for the financial facility etc.

**Findings:**

9. Heard the lawyers appearing for both the sides and perused the documents annexed to the application/reply.



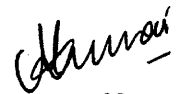
10. On perusal of the records it is found that the instant application is incomplete in many aspects. It is found that the applicant company has failed to produce on record any documentary evidence to prove that the amounts transferred to the respondent's account was a debt repayable on a fixed due date and default has occurred which is pre-requirement for initiation of corporate insolvency resolution process. The petitioner has not produced any request letter/application from corporate debtor for financial assistance, agreement or contract giving details of terms and conditions pertaining to sanction of loan, rate of interest as well as repayment of the debt. The petitioner has not produced any acknowledgement from the respondent for the financial facility granted.
11. On perusal of the records it is also found that the applicant has submitted a letter of confirmation dated 25.11.2019 (page 10) purported to have been signed on behalf of the respondent and reference of the same has been made in para V (8) on page 11 of the petition to prove the existence of financial debt. In absence of any other evidence to prove the financial debt and default, the Adjudicating Authority has no option other than dismissing the petition. Further, the petitioner has not produced any evidence to prove that the amounts transferred to the account of the respondent was against time value for money.
12. Section 7 (3) (a) of IB Code, 2016 stipulates that the financial creditor to furnish record of default recorded with the information utility or such other record or evidence of default as may be specified. The applicant has not furnished record of default recorded with information utility pursuant to section 7 (3) (a) of the IB Code, 2016. The petitioner has miserably failed to establish that the petitioner falls under

the category of "financial creditor" as defined in Section 5 (7) of the IB Code.

14. In the result, company petition No. CP (IB) 100 of 2020 stands dismissed and disposed of without cost. However, this will not stand in the way of the Petitioner approaching the appropriate forum seeking to enforce its claim against the Respondent, as this petition has been dismissed on the issue of maintainability taking into consideration the provisions of IB Code, 2016.



**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**



**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

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