**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**COURT- 3, MUMBAI BENCH**

C.P.(IB)- 1243/(MB)/ 2019

Under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016

In the matter of

Infobay Interactive India Private Limited, 112, Ashirwad, Ahmedabad Street, Mumbai-400009.

……. Applicant/ Operational Creditor

Vs

Clear Channel India Private Limited, 1-B/A. Parekh Mahal, Veer Nariman Road, Churchgate, Mumbai-400 020.

…… Respondent/ Corporate Debtor

Order pronounced on: 28.10.2021

Coram:

Hon'ble Shri H V Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Petitioner : Mr. Amir Arsiwala, Advocate

For the Respondent: Mr. Sarosh E. Bharucha, Advocate

*Per: Chandra Bhan Singh, Member (Technical)*

## ORDER

1. This Petition/ Application has been filed by M/s Infobay Interactive India Private Limited, (Operational Creditor) under Section 9 of the Insolvency & Bankruptcy Code, 2016 to initiate Corporate Insolvency Resolution Process against M/s Clear Channel India Private Limited (Corporate Debtor), [earlier known as Clear Channel Mumbai Private Limited up to 25.08.2016], 1-B/A, Parekh Mahal, Veer Nariman Road, Churchgate, Mumbai - 400 020 to claim a total outstanding amount of Rs.1,07,23,700 + Interest, Rs.55,27,734 = Rs.1,62,51,434.

2. An extract of the claim submitted by the Petitioner is as under:-

"**Infobay Interactive India Pvt. Ltd.**
112 ASHIRWAD AHMEDABAD STREET
CARBAC BUNDER, MASJID EAST MUMBAI – 400009

Sundry Debtors
APRIL-2016 TO MARCH-2019

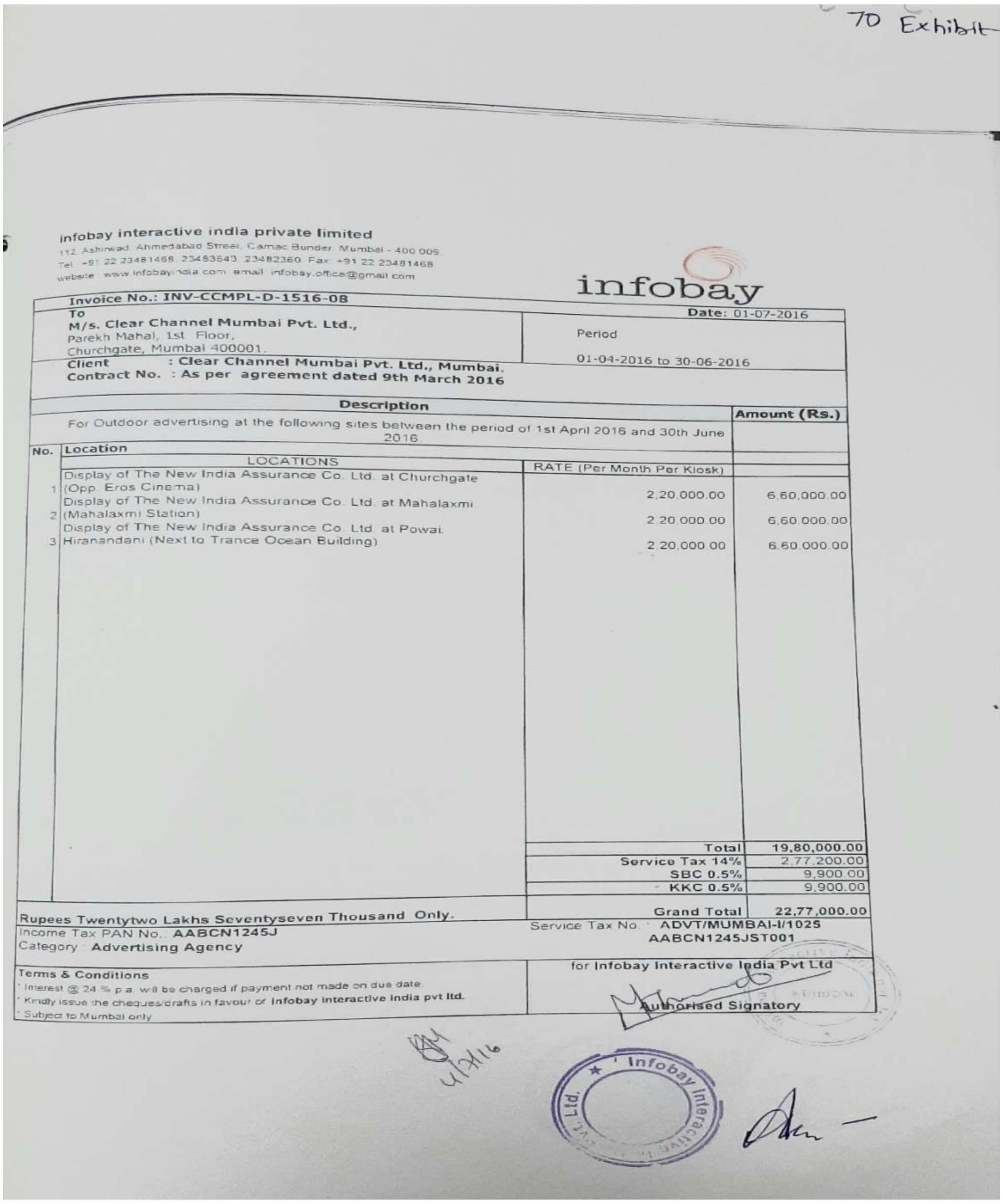
**M/s. CLEAR CHANNEL INDIA PVT LTD**

| *Bill Date* | *Due Date* | *Bill Period* | *Invoice No.* | *Amount Receivable (prin + tax – TDS* | *Int Amount* |
|---|---|---|---|---|---|
| *01.07.2016* | *01.08.2016* | *01.04. 2016 TO 30.06.2016* | *INV-CCMPL-D-1516-08* | *678000* | *433920* |
| *01.10.2016* | *01.08.2016* | *01.07.2016 TO 30.09.2016* | *INV-CCMPL-D-1617-12* | *2237400* | *1431936* |
| *01.10.2016* | *01.08.2016* | *01.07.2016 TO 30.09.2016* | *INV-CCMPL-D-1617-13* | *678000* | *433920* |
| *02.01.2017* | *02.02.2017* | *01.10.2016 TO 31.12.2016* | *INV-CCMPL-D-1617-23* | *2237400* | *1118700* |
| *02.01.2017* | *02.02.2017* | *01.10.2016 TO 31.12.2016* | *INV-CCMPL-D-1617-24* | *678000* | *339000* |

| | | | | | |
|---|---|---|---|---|---|
| *15.03.2017* | *15.04.2017* | *2016-17* | *INV-CCMPL-D-1617-32* | *1299500* | *545790* |
| *15.03.2017* | *15.04.2017* | *01.01.2017 TO 31.03.2017* | *INV-CCMPL-D-1617-33* | *2237400* | *939708* |
| *15.03.2017* | *15.04.2017* | *01.01.2017 TO 31.03.2017* | *INV-CCMPL-D-1617-34* | *678000* | *284760* |
| | | | ***Grand Total*** | ***10723700*** | ***5527734*** |

***Total amount of Claim 16251434***"

A scanned sample copy of one of the Invoices raised on 01.07.2016 by the Petitioner for the period from 01.04.2016 to 30.06.2016 is as below:-


70 Exhibit

**infobay interactive india private limited**
112 Ashirwad, Ahmedabad Street, Carnac Bunder, Mumbai - 400 005.
Tel: +91 22 23481468, 23483643, 23482360 Fax: +91 22 23481468
website: www.infobayindia.com email: infobay.office@gmail.com

infobay

**Invoice No.: INV-CCMPL-D-1516-08**

**Date:** 01-07-2016

**To**
**M/s. Clear Channel Mumbai Pvt. Ltd.,**
Parekh Mahal, 1st Floor,
Churchgate, Mumbai 400001.

Period
01-04-2016 to 30-06-2016

**Client : Clear Channel Mumbai Pvt. Ltd., Mumbai.**
**Contract No. : As per agreement dated 9th March 2016**

**Description**

For Outdoor advertising at the following sites between the period of 1st April 2016 and 30th June 2016

| **No.** | **Location** LOCATIONS | RATE (Per Month Per Kiosk) | **Amount (Rs.)** |
|---|---|---|---|
| 1 | Display of The New India Assurance Co. Ltd. at Churchgate (Opp. Eros Cinema) | 2,20,000.00 | 6,60,000.00 |
| 2 | Display of The New India Assurance Co. Ltd. at Mahalaxmi (Mahalaxmi Station) | 2,20,000.00 | 6,60,000.00 |
| 3 | Display of The New India Assurance Co. Ltd. at Powai, Hiranandani (Next to Trance Ocean Building) | 2,20,000.00 | 6,60,000.00 |
| | | **Total** | **19,80,000.00** |
| | | **Service Tax 14%** | 2,77,200.00 |
| | | **SBC 0.5%** | 9,900.00 |
| | | **KKC 0.5%** | 9,900.00 |
| | | **Grand Total** | **22,77,000.00** |

**Rupees Twentytwo Lakhs Seventyseven Thousand Only.**
Income Tax PAN No.: **AABCN1245J**
Category: **Advertising Agency**

Service Tax No.: **ADVT/MUMBAI-I/1025**
**AABCN1245JST001**

**Terms & Conditions**
* Interest @ 24 % p.a. will be charged if payment not made on due date.
* Kindly issue the cheques/drafts in favour of **Infobay interactive india pvt ltd.**
* Subject to Mumbai only

for **Infobay Interactive India Pvt Ltd**

**Authorised Signatory**

4/7/16

Infobay Interactive Pvt. Ltd.

3. **Brief facts of the case:-**

3.1. The Petitioner/ Operational Creditor entered into the business with the Respondent/ Corporate Debtor through an Agreement dated 08.08.2014 for assigning the exclusive rights for advertisement of the MCGM information Kiosk installed in Mumbai, which is the business activity of the Operational Creditor. The Petitioner submits that the Corporate Debtor made timely payments to the Operational Creditor on the invoices raised by them but started defaulting at a later stage.

3.2. Since the Corporate Debtor started defaulting the payments, the parties entered into a revised agreement dated 09.03.2016 wherein the exclusive marketing rights under the previous agreement was terminated and the Operational Creditor was free to offer their media to whomsoever they chose at whatever terms they may decide as per their discretion. Para-I of the revised Agreement dated 09.03.2016 is reproduced below:-

> "*I. END OF PREVIOUS AGREEMENT*
>
> *Subject to the terms and conditions set forth herein, Infobay and CCMPL hereby agree to terminate their previous agreement dated August 8, 2014 with effect from March 31, 2016. After this termination, CCMPL shall no longer have any marketing rights to the media pertaining to the previous agreement dated August 8, 2014 and Infobay shall be free to offer their media to whosoever they choose at whatever terms they may decide in their discretion subject to provisions of this agreement."*

3.3. The Petitioner submits that the revised Agreement had terms to be followed by the parties and the payments to be made to the Operational Creditor through the receivables from the sale and revenue generated.

3.4. The Petitioner further states that the Corporate Debtor again failed to make full payments according to the revised Agreement, therefore, the parties came to an understanding that the Corporate Debtor would retain four Kiosks to service their clients in order to repay the Operational Creditor amount, i.e. 3 (Three) Kiosks for New India Assurance and remit an amount of Rs.79,20,000 and 1 (One) Kiosk to LIC at Rs.2,00,000 per month, i.e. total Rs.24,00,000 and the balance Rs.11.50 lakhs to be paid to the Operational Creditor before 31.03.2017.

3.5. The Petitioner also submits that the Petitioner and the Corporate Debtor had an understanding of 50-50% profit sharing ratio to a minimum payment/ guarantee of Rs.90,000 per month per Kiosk, i.e., Rs.60,000 per month per Kiosk to be paid on monthly basis to be paid before $10^{th}$ of every month and Rs.30,000 per month per Kiosk to be calculated every quarter and to be paid within 60 days from that date.

3.6. The Petitioner further submits that the Corporate Debtor generated a business of an amount of INR 3.75 Crore by using the Operational Creditor's Kiosk and received timely payments from the clients.

4. As per the Petition the date of default is on 01.08.2016.

5. According to the Petitioner, the Corporate Debtor has acknowledged the debt amount due and payable to the Operational Creditor.

6. The Petitioner issued a Demand Notice in Form No.3 u/s 8 of the IBC on 19.02.2019 to the Corporate Debtor demanding payment in respect of unpaid operational debt.

7. The Petitioner mentioned that in spite of receipt of the said Demand Notice on 21.02.2019 by the Corporate Debtor, the claim amount has not been settled by the Corporate Debtor. Therefore, the Petitioner filed the present Petition u/s 9 of the I&B Code for initiating CIRP against the Corporate Debtor Company. However, the Corporate Debtor has replied to the Demand Notice vide its letter dated 01.07.2019.

8. The Petitioner has proposed the name of the Insolvency Resolution Professional, Mr. Dhanshyam Patel, Registration No. IBBI/IPA-001/IP-P01373/2018-19/12155 to act as Insolvency Resolution Professional.

8.1. The Insolvency Professional has submitted his written consent in Form No.2 to act as Insolvency Resolution Professional in this matter and submitted that there are no disciplinary proceedings pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.

**Submissions by the Respondent/ Corporate Debtor :-**

9. The Corporate Debtor in its Reply dated 01.07.2019 submits that the impugned Petition is not maintainable due to the fact that *ex-facie*, there is no default whatsoever as alleged by the

Applicant. The Respondent mentions that the Applicant has not demonstrated in the Petition as to how the Respondent falls within the scope and/ or ambit of an "Operational Creditor" as defined in the Code, more particularly in Section 5(20) of the Code. According to the Respondent, there is no operational debt owed to the Applicant and in fact it is the Applicant who owes significant sums of monies to the Respondent.

As per the Respondent, for the Petition to be maintainable there must be operational debt owed from the Respondent to the Applicant. The Respondent relies upon the provision under Section 5(21) of the Code, which is as under:-

> "*operational debt" means a claim in respect of the* ***provision of goods or services including employment*** *or debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.*"

The Respondent, therefore, submits that the monies claimed by the Petitioner as due and payable by the Respondent do not actually fall under any of the above two categories, i.e., it neither constitutes provision of goods or services nor is it for the repayment of dues payable to the Central or State government. As the claim in the present proceedings is not a claim in respect of either of the classifications stated above, the Respondent submits that the same is not an 'operational debt' and, therefore, the Petition is not maintainable.

9.1. Further, the Respondent submits that serious disputes exists prior to the date of issue of Section 8(2) Demand Notice by the Applicant. The Applicant is in clear breach of the terms of the Amendment Agreement and is guilty of various tortious acts causing grave damage, injury and loss to the Respondent. Further the Respondent mentions that these facts were brought to the notice of the Applicant as far back as in 2017 by written legal notice, however, the Applicant chose to remain silent and did not address any of the allegations levelled by the Respondent. Thus, there is pre-existing disputes between the Applicant and the Respondent.

9.2. The Respondent vehemently submits that it is a settled law that in the event there is a pre-existing dispute in terms of Section 8(2) of the Code, the alleged Operational Creditor as also the alleged Operational Debt falls out of the ambit of the Code, i.e., a proceeding under the Code is thereafter not maintainable and, therefore, in terms of Section 9(5)(ii)(d) of the Code, the Petition is liable to be rejected.

9.3. According to the Respondent, the Applicant suppressed the fact that the Agreement between the parties contained a 'dispute resolution clause' and the Petition is nothing but an attempt to circumvent the said clause. The "dispute Resolution and Arbitration" clause as per the Amendment Agreement dated 09.03.2016 is reproduced below:-

"*VI.* *<u>DISPUTE RESOLUTION AND ARBITRATION</u>*

*All disputes arising out of any of the terms and conditions of this Agreement shall be referred to Arbitration of a single Arbitrator* *appointed in mutual agreement by the parties hereto. The Arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act, 1996. The Award passed by the Arbitrator shall be final and binding on both the Parties hereto.*

*The parties hereto submit themselves to the Jurisdiction of courts in Mumbai.*"

9.4. The Respondent also raises a point of short-stamping of the purported Agreements dated 08.08.2014 (stamped for Rs.100/-) and the Amendment Agreement dated 09.03.2016 (stamped for Rs.500/-), which the Petitioner relied upon in the Petition. According to the Respondent, both the Agreements attract stamp duty under Schedule 1, Article 5(h) of the Maharashtra Stamp Act, 1958 which duty has not been paid. Since both the above Agreements are under-stamped, the Respondent pleads that the said Agreements cannot be acted upon by any court, tribunal or authority including this Hon'ble Tribunal in any manner whatsoever, including by entertaining a petition under the Code based on a purposed (albeit non-existent) debt under the said agreements.

9.5. The Respondent submits that the Applicant relies upon the Sole and Exclusive Marketing Rights of Advertising Space available on the Exterior of the Information Kiosk dated August 8, 2014 (the Sole and Exclusive Marketing Agreement (Exhibit H to the Petition) which was superseded by the Amendment to Agreement for sole and Exclusive Marketing Rights dated March 9, 2016 (Amendment Agreement).

9.6. The Respondent also denies any/ or all liability to the Applicant whether for the alleged claims of Rs.1,62,51,434/-

and/ or Rs.1,07,23,700/- being the alleged principal amount claimed; and/ or any interest whatever thereon whatsoever; and/ or any other amounts whatsoever.

9.7. The Respondent submits that the documents annexed and relied upon by the Applicant are certain Agreements, invoices and e-mail correspondence, however, these documents failed to show any default whatsoever. Further submits that the e-mail correspondence, in fact, is an evidence and admission of the pre-existing disputes between the Applicant and the Respondent. Also submits that in view of the Respondent's reply to the statutory demand notice, the Petition is not maintainable as per Section 9(1) of the Code, therefore, in terms of Section 9(5)(ii)(d) of the Code, the Petition be dismissed. Also submits that the Petition is not accompanied by (a) An Affidavit as required by Section 9(3)(b) of the Code or (b) A copy of the certificate from the financial institutions as required by Section 9(3)(c) of the Code and therefore, not maintainable.

10. **Rejoinder by the Petitioner**

In the Rejoinder the Petitioner submits that:-

- The Corporate Debtor wrongfully alleges the intentions of the Operational Creditor in filing application with the Hon'ble Tribunal and is hindering with the rights of the Operational Creditor to approach the Tribunal under the Code.

- Non-payment of the invoices for the legitimate dues by the Corporate Debtor for the Kiosks provided by the Operational Creditor is itself a default as defined under Section 3(12) of the Code.
- That with reference to Clause 5(b), there is an "Operational Debt" which is due from the Corporate Debtor for the goods and services provided by the Operational Creditor which int run establishes the Applicant being the "Operational Creditor" according to the Code.
- The Operational Creditor submits that the Operational Creditor owes no monies due to the Corporate Debtor.
- Further submits that there is no genuine dispute between the parties.
- The Operational Creditor also submits that there exists no dispute raised by the Corporate Debtor regarding the goods i.e. Kiosks provided by the Operational Creditor and the Corporate Debtor is raising disputes which are not in co-existence of the present claim demanded in the Petition.
- That, the Corporate Debtor fails to acknowledge the fact that merely raising a notice of dispute without any evidence, having genuine dispute or having a prima facie case does not amount to dispute as per the Code. Dispute as defined in Section 5(6) of the Code needs to be a genuine dispute between the parties and not motivated to evade liability. Further submits that the dispute raised by the Corporate Debtor is nowhere related to the "Operational Debt" or the goods and services provided by the Operational Creditor. The Corporate Debtor raising such

disputes which are not in connection with the present matter cannot evade the liability of the present matter at hand.

- The Petitioner also submits that the Corporate Debtor does not acknowledge the legally raised invoices annexed as "Exhibit-C" to the Application, which are due and payable and establishes a default in payment made by the Corporate Debtor which is defined as "Operational Debt" under the Code.
- That, the Corporate Debtor has acknowledged the Operational Debt amount which is evidentiary through the TDS Certificate under Form 26AS. The Corporate Debtor made last payment of TDS on 31st May, 2017 for the invoice dated 09.01.2017 which clearly indicate that the Corporate Debtor very well used the goods and services provided by the Operational Creditor till such time and was aware of the legitimate payments to be made.

**FINDINGS**

11. This Petition u/s 9 has been filed by M/s Infobay Interactive India Private Limited (Petitioner/ Operational Creditor) against M/s Clear Channel India Private Limited (Respondent/ Corporate Debtor) for a total amount of Rs.1,07,23,700/- along with interest of Rs.55,27,734/-.
12. In Part-IV of Form No.5 in the Petition, it has been mentioned that the Operational Creditor had assigned exclusive rights for advertisement to the Corporate Debtor of the MCGM in kiosks installed in Mumbai. This arrangement between the parties by

way of an agreement was dated 08.08.2014 was based on 50-50% profit sharing ratio and certain minimum payment/ guarantee per month per kiosk. However, subsequently the Agreement between the parties was revised (Revised Agreement) on 09.03.2016.

13. As per the revised Agreement, both the parties were free to compete with each other as per Clause-I of the Agreement subject to other provisions of the Agreement. It is the case of the Corporate Debtor that the Section which restricts the Operational Creditor was essentially relating to taking over the existing clients of the Corporate Debtor by the Operational Creditor by offering lower prices for the advertisement.

14. However, the Bench notes that it is the contention of the Petitioner that the Corporate Debtor again failed to make full payment according to the revised agreement for the four kiosks which as per the revised agreement was retained by the Corporate Debtor. The Petitioner has enclosed 9 (nine) supporting Invoices from 01.04.2016 to 15.03.2017. It is an admitted position that the Corporate Debtor has not raised any discrepancy regarding the amount claimed. The sole point of dispute raised by the Corporate Debtor is regarding the "co-operation and pricing alignment" as per the Revised Agreement.

15. It is noted by the Bench that the defence raised by the Respondent with regard to non-compliance by the Operational Creditor with regard to Clause-III of the revised Agreement reads as under:-

"*Additionally, CCM shall issue a purchase order of Rs. 2,00,000/- per ~~per~~ month to ~~per~~ kiosk to Infobay as per location detailed in Annexure 3 n April 1, 2016 and the same shall be renewed every three months for the full financial year 2016-17. It is further understood that CCM shall issue this purchase order, based on back-to-back sale to CCM's clients and the collections from these clients shall be remitted to Infobay on a quarterly basis.*"

16. As per this Clause, the Bench notes, that the Operational Creditor had given an assurance to the Respondent that the important clients like LIC, Bank of Baroda and PNB who are currently with the Respondent will not be taken over by offering a lower price by the Operational Creditor, Infobay Interactive Private Limited as they are its long existing clients.
17. This Bench notes that the Demand Notice by the Operational Creditor is dated 19.02.2019. However, before that in 2017, the Corporate Debtor had raised disputes on account of the collusion of Mr. Jerald Stephen who was an employee of the Corporate Debtor with the Operational Creditor, which the Corporate Debtor alleges, had diverted to a Company of ex-employees and thereby causing wrongful loss to the Corporate Debtor. Such total loss as estimated by the Corporate Debtor is of about Rs.2.30 crore.
18. The Bench notes that the main issue of dispute which has been raised by the Corporate Debtor is that Mr. Jerald was a trusted senior employee of the Respondent and was privy to trade and commercial secrets and product pricing. The Respondent mentions that Jerald committed breach of terms of his

employment by seeking to compete with Respondent within a few months of cessation of his employment and opening up another Company by the name Brandesque Media Private Limited (Brandesque). The Respondent, without attaching any proof, further mentions that this "Brandesque Media" was a front of the Operational Creditor Company which had taken away lot of business from the Corporate Debtor and thereby leading to a substantial loss of revenue to the Corporate Debtor. The Bench notes that the basis of the dispute posed by the Corporate Debtor is based on his averments that Mr. Jerald Stephen was in connivance with the Operational Creditor and got the orders of the Corporate Debtor diverted to the Operational Creditor. However, the Bench finds that this argument does not hold ground based on the fact that Mr. Jerald continued as an employee of the Corporate Debtor till May 2017 and all the bills/ invoices and payments relate to the period up to 31$^{st}$ March 2017 which pre-dates the month of resignation of Mr. Jerald Stephen. The Bench further notes that the Corporate Debtor cannot blame the Operational Creditor, who in any case, was free to compete with the Corporate Debtor by merely alluding to an allegation that it lost business because of unproven alleged misdeeds of its employee. It is also a settled case that "internal management" of the Company and conduct/ misconduct of any employee cannot be used as a tool to deny payment of legitimate dues.

19. The Bench also notes that, as per the revised amended agreement dated 09.03.2016 the Operational Creditor and Corporate Debtor had only agreed to make an 'endeavour' to

maintain the pricing of the Kiosks to certain entities at a certain level. However, the very fact that it mentions 'endeavour' doesn't mean that they cannot compete for clients. In fact, there is an explicit Clause No.1 in the Revised Agreement which clearly allows the Operational Creditor freedom to offer their media to whosoever they choose at whatever terms they may decide (non-exclusion Agreement). The Bench also notes that the Corporate Debtor has not clarified the manner it had suffered losses as a result of alleged acts of the Operational Creditor. Nowhere the Corporate Debtor has mentioned that during the period 2016-17 any of the Kiosks were vacant. In fact, it is on record that the Kiosks assigned to the Corporate Debtor by the Operational Creditor were put to advertisement and full use during the entire period up to 31.03.2017. Therefore, the contention of the Corporate Debtor that they could not earn sufficient revenue from the usage of their Kiosks is not borne by facts of the matter. The Bench also notes that, assuming that there was some loss of revenue as a result of operation of Brandesque, it is essential to note that 'Brandesque' is a separate corporate entity, distinct from the Operational Creditor and also that it came into being much after the date of the dues which are being purportedly disputed by the Corporate Debtor.

20. Regarding pre-existing disputes, other than mere allegations, the Corporate Debtor has not put any document on record which can prove that the Operational Creditor offered a lower price to the existing clients of the Corporate Debtor by offering a lower price. Therefore, the Bench is of the view that the

disputes without any record or document being submitted by the Corporate Debtor are hypothetical and illusory in nature and appears fit to be rejected.

21. The Bench further notes that out of the 9 invoices raised, the Corporate Debtor had admittedly deducted and paid TDS under 3 invoices. The details of which are as under:-

"

| *Invoice dated* | *Invoice Amount before Tax* | *Invoice Amount after Tax* | ***Total TDS deducted*** | ***Total TDS Deposited*** | *Date of Booking* |
|---|---|---|---|---|---|
| *01-07-2016* | *19,80,000* | *22,77,000* | *39600* | *39600* | *22nd Nov 2016* |
| *01-10-2016* | *19,80,000* | *22,77,000* | *39600* | *39600* | *31st Jan 2017* |
| *02-01-2017* | *19,80,000* | *22,77,000* | *39600* | *39600* | *31st May 2017* |

"

22. The very fact that the Corporate Debtor has paid TDS leaves no iota of doubt with the Bench that it has availed the services as enumerated corresponding to that particular invoice. The Bench notes that the total value of these 3 invoices for which the TDS has been paid comes to about Rs.59,40,000. The Petitioner in his 'Rejoinder' has submitted Form 26AS admitting the deduction of TDS and payment to Tax Authorities, which is as under:-.

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Data updated till 31-May-2019

TDS Centralized Processing Cell | TRACES TDS Reconciliation Analysis and Correction Enabling System

Government of India Income Tax Department

## Form 26AS

### Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

Section 203AA and second provision to Section 206C (5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Permanent Account Number (PAN) | AABCN1245J | Current Status of PAN | Active | Financial Year | 2016-17 | Assessment Year | 2017-18 |
| Name of Assessee | INFOBAY INTERACTIVE INDIA PRIVATE LIMITED | | | | | | |
| Address of Assessee | ASHIRWAD, AHMEDABAD STREET, CARNAC BUNDER, MUMBAI, MUMBAI, MAHARASHTRA, 400009 | | | | | | |

Above data / Status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections. Refer www.tin-nsdl.com / www.utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer

Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

*(All amount values are in INR)*

PART A - Details of Tax Deducted at Source

| Sr. No. | Name of Deductor | | | | TAN of Deductor | Total Amount Paid/ Credited | Total Tax Deducted* | Total TDS Deposited |
|---|---|---|---|---|---|---|---|---|
| | BANK OF INDIA | | | | MUMB11349C | 960000.00 | 19200.00 | 19200.00 |
| Sr. No. | Section [1] | Transaction Date | Status of Booking* | Date of Booking | Remarks** | Amount Paid / Credited | Tax Deducted ** | TDS Deposited |
| | 194C | 10-Nov-2016 | F | 12-Jan-2017 | - | 240000.00 | 4800.00 | 4800.00 |
| | 194C | 19-Oct-2016 | F | 12-Jan-2017 | - | 240000.00 | 4800.00 | 4800.00 |
| | 194C | 15-Sep-2016 | F | 19-Oct-2016 | - | 240000.00 | 4800.00 | 4800.00 |
| | 194C | 19-Aug-2016 | F | 19-Oct-2016 | - | 240000.00 | 4800.00 | 4800.00 |
| Sr. No. | Name of Deductor | | | | TAN of Deductor | Total Amount Paid/ Credited | Total Tax Deducted* | Total TDS Deposited |
| | BANK OF BARODA | | | | MUMB11511D | 6095000.00 | 121900.00 | 121900.00 |
| Sr. No. | Section [1] | Transaction Date | Status of Booking* | Date of Booking | Remarks** | Amount Paid / Credited | Tax Deducted ** | TDS Deposited |
| | 194C | 21-Mar-2017 | F | 19-Apr-2017 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 28-Feb-2017 | F | 19-Apr-2017 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 23-Jan-2017 | F | 19-Apr-2017 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 13-Dec-2016 | F | 15-Jan-2017 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 19-Nov-2016 | F | 15-Jan-2017 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 28-Sep-2016 | F | 18-Oct-2016 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 23-Sep-2016 | F | 18-Oct-2016 | - | 530000.00 | 10600.00 | 10600.00 |
| | 194C | 01-Aug-2016 | F | 18-Oct-2016 | - | 795000.00 | 15900.00 | 15900.00 |
| | 194C | 28-Jun-2016 | F | 22-Jul-2016 | - | 1590000.00 | 31800.00 | 31800.00 |
| Sr. No. | Name of Deductor | | | | TAN of Deductor | Total Amount Paid/ Credited | Total Tax Deducted* | Total TDS Deposited |
| | CLEAR CHANNEL INDIA PRIVATE LIMITED | | | | MUME02659G | 7665000.00 | [illegible] | [illegible] |
| Sr. No. | Section [1] | Transaction Date | Status of Booking* | Date of Booking | Remarks** | Amount Paid / Credited | Tax Deducted ** | TDS Deposited |
| | 194C | 09-Jan-2017 | F | 31-May-2017 | - | [illegible] | [illegible] | [illegible] |
| | 194C | 30-Oct-2016 | F | 31-Jan-2017 | - | [illegible] | [illegible] | [illegible] |
| | 194C | 01-Jul-2016 | F | 22-Nov-2016 | - | [illegible] | [illegible] | [illegible] |
| | 194C | [illegible] | F | 14-Nov-2016 | - | [illegible] | [illegible] | [illegible] |
| Sr. No. | Name of Deductor | | | | TAN of Deductor | Total Amount Paid/ Credited | Total Tax Deducted* | Total TDS Deposited |
| | INTER PUBLICITY PVT LTD | | | | [illegible] | [illegible] | [illegible] | [illegible] |
| Sr. No. | Section [1] | Transaction Date | Status of Booking* | Date of Booking | Remarks** | Amount Paid / Credited | Tax Deducted ** | TDS Deposited |
| | 194C | [illegible] | [illegible] | [illegible] | - | [illegible] | [illegible] | [illegible] |
| Sr. No. | Name of Deductor | | | | TAN of Deductor | Total Amount Paid/ Credited | Total Tax Deducted* | Total TDS Deposited |
| | LIFE INSURANCE CORPORATION OF INDIA | | | | [illegible] | [illegible] | [illegible] | [illegible] |
| Sr. No. | Section [1] | Transaction Date | Status of Booking* | Date of Booking | Remarks** | Amount Paid / Credited | Tax Deducted ** | TDS Deposited |
| | 194C | 31-Mar-2017 | [illegible] | [illegible] | - | [illegible] | [illegible] | [illegible] |
| | 194C | 25-Mar-2017 | [illegible] | [illegible] | - | [illegible] | [illegible] | [illegible] |
| | 194C | 25-Mar-2017 | [illegible] | [illegible] | - | [illegible] | [illegible] | [illegible] |
| | 194C | 01-Mar-2017 | [illegible] | [illegible] | - | [illegible] | [illegible] | [illegible] |

NOTARY GOVT OF INDIA

For Infobay Interactive India Private Limited

Director

23. Therefore, even assuming that a part of the amount is disputed, however, since the clear cut admitted debt amount is more than Rs.1 lakh, the Application u/s 9 cannot be rejected and is liable to be admitted. In this regard reliance is placed by the Bench on the Hon'ble NCLAT Judgment in *Gupshup Technology India Pvt Ltd v. Interpid Online Retail Pvt. Ltd. (Company Appeal 23 of 2019)*, in which the Hon'ble NCLAT observed as follows:-

> "*14. From the decision of the Hon'ble Supreme Court, it is clear that Section 3(6) defines "claim" to mean a right to payment even if it is disputed. The Code gets triggered the moment default of Rs.1 lakh or more (Section 4) occurs.*"

24. In view of the above, it is clear to the Bench that the Corporate Debtor is in default of a debt due and payable and the default is in excess of minimum amount of Rs.1 lakh stipulated in u/s 4(1) of the IBC. In view of this, the Company Petition, CP (IB)-MB-2019 is "**Admitted**".

25. The Operational Creditor has proposed name of Interim Resolution Professional, Mr. Dhanshyam Kantilal Patel of Mumbai. The IRP has submitted his written consent in Form 2 and mentions that no disciplinary proceedings are pending against him. Accordingly, this Bench appoints Mr. Dhanshyam Kantilal Patel, Registration No. IBBI/IPA-001/IP/P-01373/2018-19/12155, Address: 322, Zest Business Spaces, M G Road, Ghatkopar (East), Mumbai–400 077, Mobile: 9819718099, email: dpatel@ckpatel.com. Upon

Admission of the Application and declaration of "**Moratorium**" the Insolvency Process such as Public Announcement etc. shall be made immediately as prescribed under Section 13 read with Section 15 of the Code. He shall perform the duties as an Interim Resolution professional as defined under Section 18 of the Code and inform the progress of the Resolution process and compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

26. Having admitted the Petition/ Application the provisions of "**Moratorium**" as prescribed u/s. 14 of the Code shall come into operation. As a result, institution of any suit or parallel proceedings before any Court of Law are prohibited. The assets of the Corporate Debtor must not be liquidated until the Insolvency Process is completed. However, the supply of essential goods or services to the Corporate Debtor shall not be suspended or interrupted during "**Moratorium"** period. This direction shall have effect from the date of this Order till the completion of Insolvency Resolution process.
27. Accordingly, CP(IB)-1243/MB/2019 stands **"Admitted"**.
28. The Corporate Insolvency Resolution Process shall commence from the date of this order.
29. Registry is directed to communicate this order to both the parties and the IRP immediately.

| | |
|---|---|
| Sd/- | Sd/- |
| Chandra Bhan Singh<br>Member (Technical) | H V Subba Rao<br>Member (Judicial) |