

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH-V**

**(IB) 196(ND)/2022**

**In the matter of:**

**M/s Shapoorji Pallonji and Company Private Limited**

Registered office at:

70, Nagindas Master Road, Fort,  
Mumbai- 400023

And

Regional Office at:

7th Floor, Kanchanjuenga Building,  
18 Barakhamba Road,  
New Delhi-110001

**...Applicant/Operational Creditor**

**V/s**

**M/s Black Canyon SEZ Private Limited**

Registered office at:

A-6, Chirag Enclave,  
Greater Kailash-I,  
New Delhi - 110048

**... Respondent /Corporate Debtor**

**SECTION: U/S 9 of IBC, 2016**

**Order delivered on: 10.06.2022**

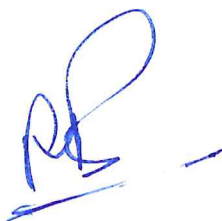
**Coram:**

**SH. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)**

**SH. RAHUL PRASAD BHATNAGAR, HON'BLE MEMBER (T)**

**PRESENT: -**

**For the Applicant:** Mr. Aakanksha Kaul, Manek Singh, Aman Sahani, Babita  
Jamwal, Advocates



**ORDER**

**MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)**

The matter was heard on 10.03.2022 and reserved for orders on the point of issuance of notice.

2. We have heard the Ld. Counsel appearing for the applicant and perused the averments made in the application. For better appreciation of the facts of applicant, we have examined Part-IV of application.

3. On examination of the averments made in Part-IV of application, we observe that the applicant has claimed that in terms of settlement agreement dated 24.07.2020, the date of default has occurred in the month of July 2020. We further observe that as per the Agreement, on account of foreclosure of the contract, the applicant is entitled to get the entire payment in 6 equated monthly installments starting from July 2020 to 31 December 2020 and the date of default as per averments made in Part-IV Colum-2 has occurred in the month of July 2020.

4. At this juncture, we would like to refer Section 10A and the same is reproduced below:-

*“Section 10A: Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:*

*Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.*

*Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.”.*



5. Now we consider the the date of default, in terms of the proviso of Section 10 of the IBC and in our considered view, since the default as per the averments made in Part IV of the application has occurred in the month of July 2020, during which period initiation of CIR Process was suspended. And even in terms of proviso, no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period. Therefore, in terms of proviso of Section 10A, the present application is not maintainable.

6. Accordingly, the **application is dismissed.**

Sd/-

(Rahul Prasad Bhatnagar)  
Member (Technical)

Sd/-

(Abni Ranjan Kumar Sinha)  
Member (Judicial)