

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-II

(IB)-265(ND)2019

IN THE MATTER OF:

1. **Kussum Chadha Ahuja**
D-2/1, Amaltas Marg, DLF Phase-1
Gurgaon, Haryana-122002
2. **Gayatri Nangia**
C-15/12, DLF Phase-1
Arjun Marg, Gurgaon, Haryana 122002
3. **Amitabh Nangia**
C-15/12, DLF Phase-1
Arjun Marg, Gurgaon, Haryana 122002
4. **Abhishek Nangia**
C-15/12, DLF Phase-1
Arjun Marg, Gurgaon, Haryana 122002
5. **Niharika Nangia**
C-15/12, DLF Phase-1
Arjun Marg, Gurgaon, Haryana 122002 ...Financial Creditors

VERSUS

Concept Horizon Infra Private Limited
8/11, 1st Floor, Hospital Road,
Jangpura, New Delhi- 110014 ...Corporate Debtor

Section: 7 of IBC, 2016

Order Delivered on: 07.01.2020

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner : Mr. Vikram Singh Baid, Adv.
For the Respondent : Mr. Rakesh Kumar, Ms. Arti Rathore, Advs.



ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

The case was heard and reserved for Orders on 18.12.2019. However, the Ld. Counsel for the Corporate Debtor drew attention of this Bench to the Gazette Notification dated 28.12.2019. As the same was reported to have a bearing on the outcome of this case, the pronouncement was deferred.

2. The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 (No.16 of 2019) amending the Insolvency and Bankruptcy Code, 2016 has been published in the Gazette of India on 28.12.2019. Under Sub-section 2 of Section 1 of the Ordinance the amended provisions come into force at once. Accordingly, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 assented by Hon'ble President has come into force with effect from 28th December, 2019.

3. As per the aforesaid Ordinance in Sub-section 1 of Section 7 of the Code before the explanation the following provisos have been inserted :

“Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class



or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first or second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019, such application shall be modified to comply with the requirements of the first or second provisos as the case may be within thirty days of the commencement of the said Ordinance, failing which the application shall be deemed to be withdrawn before its admission.”

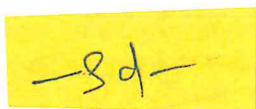


3. In view of the last proviso of Amended Sub-section 1 of Section 7 of the Code, pending applications of allottees under Real Estate Projects which have not yet been admitted are required to be modified so as to comply with the amended provisions of Section 7 of the Act.

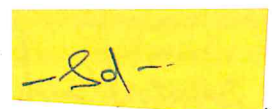
4. Accordingly, in the Company Petition No. IB-265(ND)2019 following directions are issued :

- (a) The Corporate Debtor is directed to furnish detailed information (i) in relation to the total number of allottees involved in the real estate project in question and (ii) the list of Applications filed by the Allottees of the same project under Section 7 of IBC, 2016 in NCLT across the Benches, to the Petitioners as well this Bench within 7 days hereof.
- (b) The Petitioners are also directed to modify the Company Petition suitably so as to comply with the requirements of the amended provisos of Section 7 of the Act before the next date of hearing.

5. The hearing is deferred to 10.01.2020 for compliance.



(L. N. Gupta)
Member (T)



(Ina Malhotra)
Member (J)