

IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB 850 (ND)/2019

IN THE MATTER OF:

Mr. Sahib Ram Sherawat and Ors,

....PETITIONER

Vs

Jasmine Buildmart Pvt. Ltd.

...RESPONDENT

SECTION

Under Section 7 IBC 2016

Order delivered on 11.10.2019

Coram:

Shri Ch. Mohd. Sharief Tariq,  
Hon'ble Member (Judicial)  
Shri Kapal Kumar Vohra,  
Hon'ble Member (Technical)

For the Petitioner/Applicant

: - Mr. Anshul Rai Advocate

For the Corporate Debtor

: Mr. P.V. Kapur (Sr.), Bina Gupta, Kashitij Bhav, Sheena  
Taqui, V.K. Nagrath and Sidhant Kapur Advocates

For the Intervener

: Mr. Sidhartha Das Advocate

ORDER

Counsel for both the sides are present. It is submitted by the Counsel for the applicant that the matter was supposed to have been listed on 26.08.2019 as is reflected by the e-mails sent by the applicant on 23.08.2019 and 24.08.2019. The Court proceedings also reflect that the hearing was to be held on 26.08.2019 but due to inadvertence, the matter ~~was~~<sup>did</sup> not appearing in the cause list on the day fixed for hearing. However, the matter was mentioned by the Counsel for the applicant and this Bench has taken up the matter and passed interim order by fixing the hearing date on 05.09.2019 for further consideration.

It has been submitted by the counsel for the applicant that even on 05.09.2019 the matter ~~was~~ <sup>did</sup> not appear~~ing~~ in the cause list. However, the final order came to be passed on 30.09.2019, by which the application of the Financial Creditor was admitted.

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In the totality of the circumstances it is safely concluded that the corporate debtor could not get proper opportunity for hearing, due to the reason recorded in the application and the submissions made. The cause shown is sufficient to set aside the **ex-parte** order dated 30.09.2019. Therefore, exparte order dated 30.09.2019 is hereby set aside, the original petition stands restored, which is directed to be listed on 21.10.2019. The Corporate Debtor is directed to file the reply within a weeks time. The counsel for the financial creditor is at liberty to file rejoinder, if any. The IRP stands discharged, CIRP stands withdrawn and moratorium shall cease <sup>to have effect -</sup> from the date of this order. Application is disposed of. Put up the main C.P. on 21.10.2019.

-51-

(K. K. VOHRA)  
MEMBER (TECHNICAL)

-51/

(Ch. Mohd. Sharief Faruq)  
MEMBER (JUDICIAL)

IB-850 (20/19)

C-III