

NCLT Amaravati Bench
FCP (IB) No. 76/9/AMR/2019
IN
CP(IB) No.754/HDB/2018

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Appearance:

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communication to the Corporate Debtor, nor does the alleged tracking report state that any document has been delivered. Neither any bill of lading nor any delivery orders have been issued to the Corporate Debtor. All the alleged invoices annexed to the Petition bear the same date as that of the purchase order. The debit notes annexed to the Petition do not constitute any operational debt, as they do not form part of the purchase orders and do not come within the meaning of goods or supply. Neither the invoices/bill of lading nor debit notes are served on the Corporate Debtor.

The National Company Law Appellate Tribunal (NCLAT) in *CA (AT) (Ins.) No.31/2018 between Ramco Systems Vs. Spicejet Ltd.*, held that “there is nothing on the record to

notice, to prove the existence of Operational Debt and the amount in default.”

The demand notice has not been served, and the documents establishing supply of goods has not been provided to the

an authorized signatory. I am of the considered opinion that the absence of authorization as on the date of filing of the Application is a curable defect and hence, the ratification of the signing of the application by the Authorized Signatory would overcome the defect if any.

6. The Counsel for the Corporate Debtor relies on a judgment of the NCLT, Mumbai Bench in the matter of *Softwareone India*

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7. So far as, validity of Section 8 notice is concerned, the ratification in this case is done in respect of all the acts/deeds inclusive of filing the CP which means that the giving of section 8 notice by the Authorised Signatory is also validated by the said resolution. Apart from that, the earlier authorization is hereby

8. The second aspect which the Counsel raises is with regard to the
non-filing of invoices along with the return.

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Appellant. It is also not disputed that inspite of repeated requests the Corporate Debtor failed to make payment and thereby defaulted. The Corporate Debtor has not taken any plea that there is an existence of dispute and in view of the ~~foresaid facts~~

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intimating that the Board of Company has taken a decision not to issue Post-Dated Cheques (PDCs) for any payment and once again undertaking to clear the dues in eight instalments stating

the High Court of Judicature at Bombay in ***Chamber Summons No.1705 of 2008 in Suit No.3382 of 2007 between M/s.Hari Shree Enterprises Vs. M/s.Vikas Housing Limited and others*** also is not considered as relevant, since, the facts of this case and the said judgment differ. The observations with regard to the institution of suit are that it was not a technical matter and it has far reaching effects and it would affect the policy and courts

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(CIRP) against the Corporate Debtor. The Debtor

of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.

- iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IPB as stipulated under sections 19(1) and 19(2) of the Code.