



IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-VI, NEW DELHI BENCH

COMPANY PETITION (IB) NO. -370 (ND) 2024

Under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016

IN THE MATTER OF:

M/S IMPERIAL BANQUETS & DINING PRIVATE LIMITED

Through Its Director, Mr. Sachin Gupta

CIN: U74900DL2015PTC281318

A-39, Lane No-5, Chander Vihar,

Mandawli IP Extension,

Patparganj, East Delhi-110092

....Corporate Debtor/Corporate Applicant

Order Delivered on: 09.05.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:


For the Applicant : Mr. Abhishek Taneja, Mr. Sahil Sharma and Mr. Surya Sirohi, Advs.

For the RP : Adv. Adil Khan

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The instant application is filed by M/s Imperial Banquets & Dining Private Limited ('Corporate Applicant') under Section 10 of the Insolvency and Bankruptcy Code, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process as the Corporate Debtor being the Corporate Applicant itself, has committed the default in paying the debt of Rs. 7,72,12,314/- (Rupees Seven Crores Seventy-Two Lakhs Twelve Thousand Three Hundred and Fourteen) owed to the Operational Creditor.



. The Corporate Applicant is a private limited company incorporated on 09.06.2015 under the provisions of the Companies Act, 2013 having CIN: U74900DL2015PTC281318 and registered office situated at A-39, Lal Sai Marg, Lane No.5, IP Extension, Patparganj, Chander Vihar, New Delhi 110092.

3. The averments made by the Corporate Applicant in the application, which are necessary for adjudicating the matter are summarized as under: -

- i) The Corporate Applicant was formed and set up in the form of a Special Purpose Vehicle with the sole purpose to Operate, Manage, and Transfer (OMT) the business of a Fine Dining Restaurant with a Banqueting Facilities at Delhi Haat Janakpuri, New Delhi-110058.
- ii) The Corporate Applicant had entered into a Concession Agreement dated 11.12.2015 with the Delhi Tourism and Transportation Development Corporation Limited (DTTDC) for the operation, management, and transfer of the fine dining restaurant with Banqueting facilities ("Project Facilities") for a period of 10 years.
- iii) The Corporate Applicant was successfully running its business and earning profits. However, due to the imposition of COVID-19 nationwide lockdown, the business of the Corporate Applicant started falling from the beginning of the year 2020 and the Corporate Applicant was forced to shut its business down. The business of the Corporate Applicant remained affected even after lifting of the lockdown yet DTTDC did not stop levying Annual Concession Fees.
- iv) The Corporate Applicant was unable to pay the required amount payable to the DTTDC as per the Concession Agreement dated 11.12.2015, therefore, vide Letter dated 21.02.2022, the Corporate Applicant requested for waiver of Annual Concession charges along with other charges such as property tax, GST, etc. between the period of 01.09.2021 to 31.03.2022. The officials of the DTTDC verbally accepted the request of the Corporate Applicant, however, the same was not acted upon.
- v) The Corporate Applicant proposed a repayment schedule with a promise to make the first tranche before 30.04.2023 and accordingly made a payment of Rs. 20,00,000/- (Rupees Twenty Lakhs) to the DTTDC on 29.04.2023. The



DTTDC accepted the aforesaid payment of Rs. 20,00,000/- yet issued a Letter dated 04.05.2023, demanding a sum of Rs. 5,63,35,760/- (Rupees Five Crores Sixty-Three Lakhs Thirty-Five Thousand Seven Hundred and Sixty) from the Corporate Applicant.

- vi) Aggrieved by the Demand Letter dated 04.05.2023 from DTTDC, the Corporate Applicant filed a Writ Petition (Civil) no. 9639/2023 before the Hon'ble High Court of Delhi and vide Order dated 21.07.2023, the Writ Petition was disposed of as withdrawn with liberty to approach the authorities praying to consider the case of the Corporate Applicant sympathetically.
- vii) The DTTDC issued a notice dated 20.07.2023 intimating the intent to terminate the Concession Agreement. Subsequently, on 25.09.2023, the DTTDC issued a Termination Letter to the Corporate Applicant.
- viii) The Corporate Applicant had already made bookings for the upcoming ceremonies season. Accordingly, the Corporate Applicant filed a Civil Suit, being CS SCJ No. 1508/2023 before the Tis Hazari District Court seeking a permanent and mandatory injunction against the DTTDC and vide order dated 09.10.2023, the Ld. Civil Judge passed a status quo order against the defendants.
- ix) The Corporate Applicant presented another proposal to settle the disputes and paid Rs. 25,00,000/- (Rupees Twenty-Five Lacs), however, the same was rejected by the DTTDC.
- x) The DTTDC issued a Letter dated 06.12.2023 to the Corporate Applicant seeking return of physical possession of the Project Facilities and subsequently initiated proceedings against the Corporate Applicant under sections 4 and 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, before the Estate Officer, DTTDC by filing the Petition no.10/ 2024 and Petition no. 11/ 2024, respectively.
- xi) The Estate Officer disposed of the two aforesaid Petitions vide two separate Orders dated 07.03.2024. In Petition no. 10/2024, the Estate Officer ordered to return of the physical possession of the Project Facilities, which is only the single earning asset of the Corporate Applicant. In Petition no. 11/ 2024, the Estate Officer directed the Corporate Applicant to pay the sum of



Rs.7,72,12,314/ (Rupees Seven Crores Seventy-Two Lakhs Twelve Thousand Three Hundred and Fourteen) along with 18% interest per annum till realization.

xii) The Corporate Applicant handed over the possession of the Project facilities to the DTTDC on 27.03.2024. However, an amount of Rs. 7,72,12,314/- plus 18 % interest p.a. remains due and defaulted by the Corporate Applicant. Subsequently, the shareholders of the Corporate Applicant passed the Special Resolution in their extraordinary general meeting held on 31.05.2024 resolving to initiate CIRP against the Corporate Applicant. Hence, the instant application has been filed.

4. We have heard Ld. Counsel for the Corporate Applicant and have perused the averments made in the application and affidavit filed by the Corporate Applicant. The relevant documents annexed with the application have been examined.
5. From the submissions made by the Corporate Applicant, it was stated that the Corporate Applicant had defaulted in the payment of Rs. 7,72,12,314/ (Rupees Seven Crores Seventy-Two Lakhs Twelve Thousand Three Hundred and Fourteen) along with 18% interest per annum due to the DTTDC. Therefore, the company had approached this Adjudicating Authority by filing an application under Section 10 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process against itself.
6. Pertaining to the facts of the instant case, it is observed that the Corporate Applicant entered into a Concession Agreement dated 11.12.2015 with the DTTDC for the operation, management and transfer of the fine dining restaurant with Banqueting facilities for a period of 10 years. It was submitted that due to the imposition of the COVID-19 lockdown, the business of the Corporate Applicant got shut, however, the DTTDC continued imposing Annual Concession fees along with other applicable charges. The Corporate Applicant proposed to settle the disputes with the DTTDC, however, the DTTDC rejected the proposal offered by the Corporate Applicant and issued a Demand Letter dated 04.05.2023, thereby, demanding a sum of Rs. 5,63,35,760/- (Rupees Five Crores Sixty-Three Lacs Thirty-Five Thousand Seven Hundred and Sixty) from the Corporate Applicant. It



is noteworthy that the Corporate Applicant entered into several litigations in order to seek the relief against the claim of the DTTDC.

7. It is further observed that the DTTDC initiated proceedings against the Corporate Applicant under Sections 4 and 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, before the Estate Officer, whereby, the Estate Officer vide Order dated 07.03.2024 in Petition No. 10/2024 directed the Applicant to return the physical possession of the Project Facilities and the said Order was complied by the Corporate Applicant by handing over the possession of the project facilities to the DTTDC on 27.03.2024. Furthermore, the Estate Officer vide its Order dated 07.03.2024 in Petition No. 11/2024 directed the Corporate Applicant to pay the sum of Rs. 7,72,12,314/ (Rupees Seven Crores Seventy-Two Lakhs Twelve Thousand Three Hundred and Fourteen) along with 18% interest per annum till realization to the DTTDC, however, the Corporate Applicant admittedly had failed to repay the aforesaid amount of Rs. 7,72,12,314/-.
8. It is further observed that the Corporate Applicant has filed the copies of the Audited Financial Statements of last two Financial Years i.e., FY-2022-23 and FY-2021-22 along with Unaudited Financial Statements as on 31.05.2024 which discloses that the company is having substantial losses since the past three years.
9. It is observed that the members/ shareholders of the Corporate Applicant i.e. M/s Imperial Banquets & Dining Private Limited in their extraordinary general meeting held on 31.05.2024 passed a special resolution to initiate CIRP against the company by filing an application under Section 10 of the Code, however, the aforesaid dues owed by the Corporate Applicant towards the DTTDC for the Annual Concession charges, License Fees, Property Tax and other charges are the government dues and as such, cannot be neglected at any cost. Moreover, the Corporate Applicant itself had admitted the fact that due to the downfall of the business operations of the Corporate Applicant, the Corporate Applicant was unable to repay the outstanding amount to the DTTDC.
10. Furthermore, on the perusal of the documents placed on record, it is observed that the Applicant has annexed the List of Assets and Liabilities of the Corporate



Applicant which discloses that the Corporate Applicant has Assets worth Rs. 5,57,92,526/- out of which a substantial amount of payment could be made to the DTTDC in order to discharge its liability, however, the Corporate Applicant has chosen to file the instant Section 10 application. In view of the aforesaid observations, we are of the view that the intent of the Corporate Applicant is not to seek resolution of the Corporate Applicant but to evade the liability owed towards the DTTC. Henceforth, the Corporate Applicant is attempting to escape the liability of the DTTDC by filing the instant application under Section 10 of the Code.

11. Accordingly, the instant application is liable to be dismissed on the ground of pendency of Government Dues. The Corporate Applicant cannot take the shield of CIRP in order to avoid the legally recoverable government dues. Accordingly, the instant application bearing no. **C.P. (IB)/370/ND/2024 stands dismissed.**
12. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)