

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Petition No.: IB 525(PB)/2022

*Under Section 7 of the Insolvency and Bankruptcy Code, 2016
read with Rule 4 of the Insolvency and Bankruptcy (Application
to adjudicatory authority) Rules, 2016*

IN THE MATTER OF:

CHIRAG JAIN & ORS

.... Applicant/Financial Creditor

VERSUS

IMPERIA STRUCTURES LIMITED

REGISTERED OFFICE:

A-25, MOHAN CO-OPERATIVE
INDUSTRIAL ESTATE, MATHURA
ROAD, NEW DELHI-110044

CIN No.: U45400DL2010PLC198791

.... Respondent/Corporate Debtor

Clarification order delivered on: 19.12.2022

CORAM:

**SHRI RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT**

**SHRI AVINASH K SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)**

RS

CLARIFICATION ORDER:


1. This is an application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code") by financial creditors who have booked a total of 28 units (twenty-eight) in the real estate project namely "**Imperia Byron/Mindspace**" for initiation of CIRP against the corporate debtor (CD) viz., Imperia Structures Limited, for the dues of principal amount of **Rs. 3,67,93,375/-** (Rupees Three Crore Sixty-Seven Lakh Ninety-Three Thousand Three Hundred Seventy-Five Only) excluding interest calculated at 18% p.a.
2. The matter was heard and reserved on 07.10.2022.
3. On perusal of the documents, we find that the reply has been filed by the corporate debtor on 14.10.2022 i.e. after the date when the order was reserved in which they have taken the plea that the number of allottees in the project of the corporate debtor stands at 326 in number and hence the application under Sec 7 filed against the corporate debtor does not qualify the minimum threshold as required under the Code for filing a section 7 petition and on the contrary, the applicant has stated that the total no. of allottees in the project of corporate debtor are 246 in number and 28 unit holders have filed the present application which meets the threshold as required for filing Sec 7 application.

As

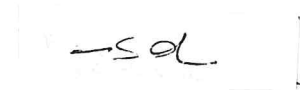
4. In order to ascertain the correct facts in regard to the allottees and allotment, this Adjudicating Authority has certain queries which needs to be answered for proper adjudication of the matter. Therefore, this Adjudicating Authority seeks clarification from the corporate debtor on the following points:

- i. The Corporate debtor has stated in their reply at Pg-5, that the number of allottees in the project of the corporate debtor are 326 in number and that they can produce the MOUs signed with all the allottees, if directions are given by this Adjudicating Authority. The corporate debtor is required to produce the same at the time of hearing.
- ii. The reasons for not updating the data regarding the number of allotments as on date in the State RERA website which is mandatorily required as per Sec 11 of RERA Act, 2016.
- iii. The list in regard to the allotment and allottees as provided by the corporate debtor in their reply at **Annexure-C** Pg 29-38 mentions 51 allottees as having being allotted virtual spaces in the project of the corporate debtor, the corporate debtor is directed to explain what does virtual space stands for and whether the allotment made in virtual space comes under the ambit of allotments made for calculating the threshold under Section 7 application.

5. The reply to the above queries shall be placed by way of a supplementary affidavit by the corporate debtor within a period of three weeks from today, with a copy served on the counsel on record for the Financial Creditor. The Financial Creditor shall have upto two weeks thereafter to file a reply to the supplementary affidavit as well as the rejoinder to the reply filed by the corporate debtor, if deemed necessary.
6. List the matter on 30.01.2023 for further consideration.



(RAMALINGAM SUDHAKAR)
PRESIDENT



(AVINASH K SRIVASTAVA)
MEMBER, TECHNICAL