

26.06.2020

To
The Station Head Officer (SHO),
Netaji Subhash Place Complex,
Near Netaji Subhash Place Metro Station,
Pitampura, Delhi – 110034.

Sub: Filing of complaint against the non-traceable vehicles of M/s Dream Procon Pvt. Ltd. by Mr. Nilesh Sharma (Complainant).

Dear Sir,

With reference to the above captioned subject, the complainant is hereby filing the complaint with respect to non-traceable vehicles of M/s Dream Procon Private Limited, the brief facts for leading of the complaint is herein below:

- 1 That the company namely as M/s Dream Procon Pvt. Ltd. was incorporated under the provision of 1956. As per the records of the company there are six directors in the company namely as Mr. Parmod Goel, Mr. Krishna Kumar Gupta, Mr. Ashok Gupta, Mr. R.K. Bansal, Mr. Sanjiv Sachdeva and Ms. Garima. Copy of details of the director obtained from the website of Ministry of Corporate Affairs (MCA) is annexed herewith as **Annexure A**.
- 2 That the Hon'ble National Company Law Tribunal (NCLT), New Delhi admitted an application for initiating insolvency proceeding against M/s Dream Procon Pvt. Ltd. and pursuant the order dated 06.09.2019, the Hon'ble NCLT appointed Mr. Manish Gupta as Interim Resolution Professional (IRP). Copy of order dated 06.09.2019 passed by Hon'ble NCLT, New Delhi is attached herewith as **Annexure B**.
- 3 That subsequently the Hon'ble NCLT New Delhi vide its order dated 16.01.2020, confirmed the appointment of Shri Nilesh Sharma (Complainant) as Resolution Professional of M/s Dream Procon Pvt. Ltd. Copy of order dated 16.01.2020 passed by Hon'ble New Delhi is attached herewith as **Annexure C**.

(Under CIR Process)

- 4 That in terms of provisions under Section 17 of the IBC, 2016, please note that from the date of his appointment, the IRP is vested with the management of affairs of the Company and all the powers of the Board of Directors of the Company stand suspended and be exercised by him. Further, as per Section 23(2) of IBC, on appointment of RP he exercise the powers and performs duties as are vested or conferred on the IRP. The provisions of Section 17 and 23(2) of IBC, 2016 are reproduced hereunder for your ready perusal. Section 17 of IBC is reproduced herein for the sake of convenience:

"IBC Section 17-Management of affairs of corporate debtor by interim resolution professional.

(1) From the date of appointment of the interim resolution professional,—

(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;

(b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;

(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;

(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor, shall-

(a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;

(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;

(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;

(d) have the authority to access the books of accounts, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as 1[may be specified; and]

For EGM Process
Private Limited
Nilesh Sharma
Authorized Signatory



(e) 2[be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.]

- 5 The complainant vide letter dated 09.06.2020 intimated to the directors and the company with respect to the commencement of Corporate Insolvency Resolution Process (CIRP) and his appointment as RP in the said company. The complainant categorically informed to the said directors (powers suspended) of the company that he had been vested with the management of the affairs of the company. The complainant also requested to the directors to provide him all the records inter-alia including the details of the vehicles of the company. Copy of letter dated 09.06.2020 is attached herewith as **ANNEXURE D**.
- 6 It is pertinent to mention that after the appointment of the complainant as Resolution Professional of the said company, the RP found from the books of accounts of the company that it owned total number of 12 vehicles. The details of the said vehicles of the company are herein below:-

S. No.	Particulars	Original Cost	Vehicle Regn. No.
1.	BMW 320 D	34,42,283.00	DL2CQ9810
2.	Corolla Altis	15,11,191.00	HR05AM7867
3.	Honda City	9,57,516.00	DL3CEB9263
4.	Hyundai i-20	6,98,521.00	DL9CAA4905
5.	Innova Car	13,44,609.00	UP16AV2115
6.	Scorpio Car	7,60,643.00	Not Applicable
7.	Fortuner	32,69,935.00	UP16BL3573
8.	Fortuner	34,30,700.00	Not Applicable
9.	Fortuner	31,83,471.00	HR26DG3216
10.	Mercedez	79,43,868.00	UP16BN0013
11.	Boloro Zix	8,57,026.00	DL 8CAC 1575
12.	Canter	1322524.00	UP 16CT 1782

For Dream Procon Private Limited
(Under CIR Process)

Nilesh Sharma
Authorized Signatory

- 7 It is pertinent to mention that after the appointment of the complainant as RP in the said company, he had made all best efforts to take custody of the aforesaid vehicles of the company, however, as on date, he is able to get custody of the only two vehicles, the details of the same are given herein below:-

S. No.	Particulars	Original Cost	Vehicle Regn. No.
1.	Boloro Zix	8,57,026.00	DL 8CAC 1575
2.	Canter	1322524.00	UP 16CT 1782

- 8 It is pertinent to mention that the other ten (10) vehicles belonging to the said company are not traceable and have been illegally removed from the custody of the company and the complainant is hereby requesting to your good office to initiate appropriate steps for tracing the said non-traceable vehicles of the company and also to take criminal action against those who are involved in this criminal act.
- 9 It is further submitted that the aforesaid vehicles are the valuable assets of the company and the complainant had taken all necessary steps for tracing the said vehicles but all his efforts have gone into vain.
- 10 The complainant has the apprehension of the mis-utilization of the said non-traceable vehicles for any criminal act by those involved.
- 11 It is informed that the instant case falls under your jurisdiction as the Registered Office of the Company is at 811, 8th floor, Krishna Apra Plaza, Tower 1, Netaji Subhash Place, Pritampura, New Delhi -110024.

In view of the above, the undersigned is requesting you to lodge an FIR /criminal complaint/NCR with respect to the non-traceable vehicles of the said company and also initiate appropriate legal action against the concerned person.

For Dream Procon Private Limited
Thanking you, Under CIR Process

Yours faithfully,

Nilesh Sharma

Resolution Professional

Dream Procon Private Limited

IBBI/IP-002/IP-N00104/2017-18/10232

nilesh.sharma@witworthipe.com / ip.dreamprocon@gmail.com

Signatory Details

CIN / LLPIN

U70200DL2011PTC219778

Company / LLP Name DREAM PROCON PRIVATE LIMITED

List of Signatories

DIN/DPIN/PAN	Full Name	Present Residential Address	Designation	Date of Appointment	Whether DSC Registered	Expiry Date of DSC	Date of Surrendered DIN
00009553	PRAMOD GOEL	BN 33 EAST SHALIMAR BAGH DELHI 110088 DL IN	Director	01/12/2012	Yes	20/09/2020	

Signatory Details

CIN / LLPIN U70200DL2011PTC219778
 Company / LLP Name DREAM PROCON PRIVATE LIMITED

List of Signatories

DIN/DPIN/PAN	Full Name	Present Residential Address	Designation	Date of Appointment	Whether DSC Registered	Expiry Date of DSC	Surrendered DIN
00009553	PRAMOD GOEL	SHALIMAR BAGH DELHI 110088 DL IN	Director	01/12/2012	Yes	20/09/2020	

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENCH-III
NEW DELHI

IB-1771/(ND)/2018

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

Ms. Priyanshi Arora,
E-50, Naraina Vihar,
New Delhi-110028

.....Financial Creditor

VERSUS

M/s Dream Procon Pvt. Ltd.,
702-704, D-Mall, Netaji Subhash Place,
Pitampura,
New Delhi-110034.

..... Corporate Debtor

Coram:

R. VARADHARAJAN,
Hon'ble Member (Judicial)

K.K. VOHRA,
Hon'ble Member (Technical)

IB-1771/(ND)/2018

Ms. Priyanshi Arora vs. M/s. Dream Procon Pvt
Ltd.

1/1/18

✓

Counsel for the Petitioners: Mr. Vaibhav Tyagi, Advocate
Counsel for the Respondent: Mr. Gaurav Rana, Mr. Ashutosh Gupta, Mr. Abhishek Aggarwal, Advocates

Delivered on: 06.09.2019

ORDER

(Order dictated in the open Court)

A Petition has been filed by the Financial Creditor under the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC,2016) read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for brevity called 'AAA Rules, 2016.'

2. Part-I of the Petition discloses that the Petitioner is an individual. Part-II of the Petition discloses details of the Corporate Debtor (CD) from which it is evident that the CD was incorporated on 25.5.2011 and presently the authorized share capital of the CD is stated to be Rs.200000000/- and the paid up share capital of Rs.101000000/- respectively. The registered office of the CD is stated to be situated at 811,8th Floor, Krishna Apra Plaza, Tower -1, Netaji Subhash Place, Pitampura, Delhi, New Delhi.

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3. Part-III of the Petition discloses that one Mr. Manish Gupta has been proposed as the Interim Resolution Professional (IRP).

4. Part-IV of the Petition discloses details of the Financial Debt from which it is seen that the total amount of debt payable by the CD is stated to be in a sum of Rs.48,04,700/- as on 21.11.2018 along with interest at the rate of 24% per annum till the date of realization. It is averred that FC and the CD entered into an Agreement in the year 2015 for a sum of Rs.40,00,000/- which was to be returned after expiry of 1 year along with interest/assured return in relation to the amount made available. It is further averred that post dated cheques were given and that the CD had also provided residential property bearing C3-001, Victory Ace, Plot No.GH-02, Sector 143, Noida as security option to the CD to return the investment as well as the assured return payment. It is averred that in terms of clause 9 of the Agreement, CD was liable to buy back the property from the FC after the expiry of 1 year. It is also highlighted in the Petition that all due payments in relation to the assured return were made by the CD upto 2016. Subsequent to the said year, there has been default on the part of CD and in the circumstances an Article of Agreement dated 27.06.2017 was entered into between FC and CD whereby it was agreed between the parties that the property as described in the said Agreement comprising to the extent of 1895 sq.ft. has been allotted to the FC by the CD with a total

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consideration of Rs.40,00,000/- and that under the said Article of Agreement and more particularly the CD was required to complete the development and construction of the flats within 30 months with further extension period of 3-6 months in case the development and construction of the flats is not able to be completed within the period of 30 months. Further, the onus is also placed upon the CD that after the completion of the residential complex, FC would be intimated to take over possession of the flats within 30 days thereafter and the other consequences in relation to registration of sub-lease deed and documentation to follow. Despite these Agreements since neither the money was repaid nor the possession of the flats was given or offered, the Petition in view of default as alleged to have been committed has been filed seeking for the initiation of Corporate Insolvency Resolution Process (CIRP) as against the CD.

6. The CD has filed a reply upon notice wherein the CD seeks to defend its cause on the basis that a sum of Rs.48,04,700/- being the claim due and payable by the CD to the FC, a contention is sought to be raised on the part of CD in relation to the completion, development and construction of flats referring to para 16.8 of the Agreement as entered into between the parties that in view of the circumstances beyond the control of the CD, the CD was not able to complete the project in as much as the CD was precluded by order of Hon'ble High Court dated 1.8.2017

restraining the CD from alienating the property in view of dispute in existence as between the land owner and the developer namely, the CD. The fulcrum of the defence of CD seems to be the above contention as evident from the objections which have been raised in relation to the filing of the Petition.

7. Both the parties were heard by this Tribunal in detail. Ld. Counsel for the Petitioner/FC reiterated the submissions based on the pleadings which have been filed by the Petitioner. It is brought to the notice of this Tribunal by Ld. Counsel for the Petitioner that a sum of Rs.40,00,000/- which was originally made available as an investment by the Petitioner in relation to the project was required to be returned after the period of 1 year. Further, the assured return was also offered by the CD which was paid till the year 2015 and subsequently, there has been a default. Thus, taking into consideration the default the Petitioner/FC had the option to go in for taking the possession of the flats as contemplated under clause 4 of the Agreement i.e. which provides the period of 30 months with a further extension of 3-6 months, as contemplated under the Agreement as entered into between FC and CD. However, as the home buyers in view of the default committed in handing over the property as contemplated, there has been a default on the part of the CD as envisaged under the provisions of IBC,2016. However, Ld. Counsel for the CD vehemently contended that the FC is

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required to come either as a person who has granted the loan being a commercial borrowing or in the capacity of a home buyer under the provisions of Section 5(8)(f) of IBC,2016. However, we are not in a position to appreciate the contention as made by Ld. Counsel for the CD, in view of the recent Judgement passed by the Hon'ble Supreme Court in the matter of Pioneer Urban Land and Infrastructure Ltd. & Anr. vs. Union of India & Ors. in Writ Petition (Civil) No.43 of 2019 dated 9.8.2019 as under the provisions of IBC,2016 the various sums which have been made to the CD is in relation to financing the project which entitles them to be treated as 'Financial Creditors'. Further, even in relation to assured return as undertaken by the CD, taking into consideration the decision of Hon'ble National Company Law Appellate Tribunal a home buyer is entitled to maintain a Petition as the amounts have been paid as against consideration for the time value for money and thus in the capacity of the home buyer an expectation to either hand over the property or to entertain the claim for the refund of amount along with compensation from the CD on the expiry of the time limit failing which there is a 'default', is also further required to be noted that the Petitioner is not a party to the dispute as between the CD and the land owner. Under the circumstances, Petitioner is not required to await for the decision of the Hon'ble High Court of Delhi for getting refund if the CD is not able to give possession. In the



circumstances, we do not find any exception to be made as submitted by the CD that there is impossibility suffered by the CD. If that being so, the CD is required to return back the money which was collected by it by way of financing the project and ~~in~~ ^{the} effect a commercial borrowing as envisaged under the provisions of IBC,2016 more particularly, under Section 5(8)(f) of IBC,2016. Having failed to do so, we are of the considered view that default has been committed on the part of CD in relation to the claim as made by the Petitioner which warrants the initiation of the CIRP as against the CD. The petition stands admitted.

8. Shri Manish Gupta, registered with IBBI having registration number IBBI/PA-001/IP-P0113/2018-2019/11826, email: ip.manishgupta31@gmail.com, Mob.9810215494, is appointed as the Interim Resolution Professional (IRP). A declaration in Form 2 has been filed by the above said IRP annexed at page 82-83 of the typed set. The IRP shall strictly act in accordance with provisions of IBC,2016 and the attendant rules and regulations framed there under in relation to conduct of IRP and as well as in relation to the CIRP of the CD.

9. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

However during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

The duration of the period of moratorium shall be as provided in Section 14(4) of IBC, 2016 and for ready reference reproduced as follows:-

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

10. Based on the above terms, the Application/Petition stands admitted in terms of Section 7(5)(i) of IBC, 2016 and the moratorium shall come into effect as of this date. A copy of the order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition a copy of the order shall also be forwarded to IRP named above for initiation of action and to IBBI for its records.

- Sol -
(K.K.VOHRA,
MEMBER(Technical)

U.D.Mehta
06.09.2019

- Sol -
(R.VARADHARAJAN)
MEMBER(Judicial)

9/17/19

IB-17/1/INDI/2018
Ms. Priyanshi Arora vs M/s Dream Productions Pvt
Ltd.

24/01/20

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.-110

IB-1771(ND)/2018

C.A No. 366/CIII/ND/2020

IN THE MATTER OF:

Ms. Priyanshi Arora

Vs.

M/s. Dream Procon Pvt. Ltd.

....APPLICANT

....RESPONDENT

SECTION

U/s 7 IBC Code, 2016

Order delivered on 16.01.2020**CORAM:**

CH. MOHD. SHARIEF TARIQ

MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA

MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Mr. Sahil Sethi, Advocate

For the Respondent

:

For the Intervener

:

ORDER

CA No.366/C-III/ND/2020

IN

IB-1771(ND)/2018

The first CA is filed by the CoC seeking the order for the appointment of Mr. Nalish Sharma as the Resolution Professional replacing the IRP Mr. Manish Gupta. The Application is supported by the resolution of the CoC that came to be passed in 2nd meeting of the CoC held on 19.12.2019. The remuneration fixed is Rs.3.00 lakhs per month from the date of appointment till the date he continues to hold the charge of the Resolution Professional. An amount of Rs.1.50 lakhs per month is payable to Witworth Insolvency Professional Private Limited for providing infrastructure support to the Resolution Professional. The resolution has been passed by the CoC with 95% voting shares. Therefore, Mr. Nalish Sharma is hereby appointed



as the Resolution Professional on the terms as set out in the resolution passed by the CoC. The IRP is directed to hand over record of the Corporate Debtor to the Resolution Professional within week's time after receiving the copy of this order. Accordingly, the CA stands disposed of.

CA No.933/C-III/ND/2019

IN

IB-1771(ND)/2018

In the second CA, prayer is made to appoint Mr.S.Prabhakar, Insolvency Professional as authorized representative of class of creditors of homebuyers in terms of Section 21(6A)(b) of the I&B Code, 2016 read with Regulation 16A(2) of the Insolvency Regulations, 2016. Counsel for the Resolution Professional has submitted that there are 250 claimants being the homebuyers and at the time of filing the claims, majority of them viz. 154 in numbers constitutes 65.57% of the voting share of the home buyers have given preference for appointment of Mr. S.Prabhakar as AR. Therefore, Mr. S.Prabhakar, Resolution Professional, whose consent has been obtained on 17.10.2019, is hereby appointed as Authorized Representative for the homebuyers with the direction to to the RP to facilitate the Authorized Representative at the time of voting in the CoC as per the instructions that may be being given by the home buyers for the purpose of voting. Accordingly, the CA stands disposed of.

-sd -
(SUMITA PURKAYASTHA)
MEMBER (TECHNICAL)



-sd -
(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)

U.D.Mehta

23.1.2020
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110008

Annexure-D

NILESH SHARMA

Insolvency Professional

Reg. No. IBBI/PA-002/IP-N00104/2017-18/10232



09.06.2020

To

Mr. Pramod Goel 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034	Mr. Krishan Kumar Gupta 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034	Mr. Ashok Gupta 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034
Mr. R.K Bansal 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034	Mr. Sanjay Sachdeva 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034	Ms. Garima 811, 8th Floor, Krishna Apra Plaza, Tower-1 Netaji Subhash Place, Pitampura Delhi, New Delhi - 110034

SUB: REQUEST TO PROVIDE CONTROL AND CUSTODY OF THE ASSETS AND RECORDS OF DREAM PROCON PRIVATE LIMITED (CORPORATE DEBTOR).

Dear Sir,

1. This is in continuation of our continuous efforts to contact you for seeking the effective control and custody of accounting, statutory and other record and of some of the fixed assets including vehicles etc. of the Corporate Debtor, and for seeking the necessary cooperation in the matter. As you are aware that Dream Procon Private Limited is undergoing Corporate Insolvency Resolution Process since 06.09.2019 vide order of the Hon'ble National Company Law Tribunal, New Delhi and Mr. Manish Gupta, was appointed as Interim Resolution Professional (IRP) in the matter (Annexure "I"). Also please note that the Committee of Creditor in its meeting held on 23.12.2019 passed the Resolution for appointment of the undersigned to act as Resolution Professional in the matter. The Hon'ble National Company Law Tribunal, vide its order dated 16.01.2020 approved the appointment of the undersigned to act as Resolution Professional (Annexure "II"). After taking the charge from Mr. Manish Gupta, erstwhile IRP, the undersigned was making continuous efforts for getting the control and custody of the accounting, statutory and other record and of some of the fixed assets of the Corporate Debtor, however, So far a lot of information is still not available and that certain assets as mentioned in the audited balance sheet 2018 are not available to the undersigned.
2. You are aware that as per the provisions of Section 17 and 25 of IBC, 2016, the IRP/RP is mandated to take control and custody of the all assets of the Corporate Debtor including its business records. The relevant part of Section 17 & Section 25 of IBC, 2016 is reproduced hereunder for your ready perusal.

For Dream Procon Private Limited
(Under C.I.P. Process)

Regd. & Corp. off.: D-54, 1st Floor, Defence Colony, New Delhi-110024
Mob.:+91-9811418701 • Tel.: 011-40567644 • Email: nilesh.sharma@witworthipe.com
www.witworthipe.com
CIN: U74999DL2017PTC314322

Nilesh Sharma
Authorized Signatory

NILESH SHARMA

Insolvency Professional

Reg. No. IBBI/IPA-002/IP-N00104/2017-18/10232



"Section 17-Management of affairs of corporate debtor by interim resolution professional."

(1) From the date of appointment of the interim resolution professional,—

(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;

(b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;

(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;

(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor shall—

(a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;

(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;

(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;

(d) have the authority to access the books of account, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as may be specified; and

(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.

For Dream Procon Private Limited
(Under CIR Process)

Nilesch Sharma
Authorized Signatory

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NILESH SHARMA

Insolvency Professional

Reg. No. IBBI/PA-002/IP-N00104/2017-18/10232



Section 25: Duties of resolution professional:

25. (1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:—

(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;

(c) raise interim finances subject to the approval of the committee of creditors under section 28;

(d) appoint accountants, legal or other professionals in the manner as specified by Board;

(e) maintain an updated list of claims;

(f) convene and attend all meetings of the committee of creditors;

(g) prepare the information memorandum in accordance with section 29;

¹[(h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.]

(i) present all resolution plans at the meetings of the committee of creditors;

(j) file application for avoidance of transactions in accordance with Chapter III, if any; and

(k) such other actions as may be specified by the Board."

3. Further please note that as per the provisions of Section 19, all personnel, promoters and any other persons associated with the management of the Corporate Debtor have to extend their all assistance and cooperation to the Resolution Professional as may be required by him in managing the affairs of the Corporate Debtor. The relevant part of Section 19 is reproduced hereunder:

For Dream Process Private Limited
(Under CIR Process)

Regd. & Corp. off.: D-54, 1st Floor, Defence Colony, New Delhi-110024
Mob.:+91-9811418701 •Tel.: 011-40567644 • Email: nilesh.sharma@witworthipe.com

www.witworthipe.com

CIN: U74999DL2017PTC314322

18/2
From
18/08/2017

NILESH SHARMA

Insolvency Professional

Reg. No. IBBI/IPA-002/IP-N00104/2017-18/10232



"Section 19: Personnel to extend cooperation to interim resolution professional:

19. (1) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.

(2) Where any personnel of the corporate debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.

(3) The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other person to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor.

4. In view of the aforesaid provisions, the undersigned hereby call upon you to immediate provide all the records of the Corporate Debtor and all its assets including the following:

a. Tangible Assets owned by the Corporate Debtor

- I. Vehicles (Details of vehicles belonging to the Corporate Debtor as per its Audited Balance Sheet as on 31.03.2018 is attached as Annexure "III".
- II. Plant & Machinery
- III. Office Equipments
- IV. Other assets

b. All the Contracts and Agreements in original.


c. Investments:

Share Certificates in original for the investments made by the Corporate Debtor to the tune of Rs. 40.25 Crore including the title documents for investment in three shops in Indirapuram Habitat Centre.

d. Other Assets:

- I. Details of long terms & short term advances and other current assets including original copy of the fixed assets register.
- II. Details of all inventory
- III. All files of Home Buyers in original.

For Dream Procon Private Limited
Nieder CIR Process


Nitesh Sharma
Authorized Signatory

Regd. & Corp. off.: D-54, 1st Floor, Defence Colony, New Delhi-110024
Mob.: +91-9811418701 • Tel.: 011-40567644 • Email: nilesh.sharma@witworthipe.com
www.witworthipe.com

CIN: U74999DL2017PTC314322

NILESH SHARMA

Insolvency Professional

Reg. No. IBBI/IPA-002/IP-N00104/2017-18/10232



- IV. Soft and hard copies of all the accounting, statutory and other record of the Corporate Debtor since inception.
- V. All building plans, registrations, approval, original agreements, title deeds in respect of the Victory Ace Project.

You are requested to provide the above said information and custody of all the assets as detailed in Audited Balance Sheet 31.03.2018 and as particularly mentioned above within 7 days from the date of this letter. In case of non receipt of above information / custody within 7 days, the undersigned will be forced to take the necessary legal action against you including filing an application before the Hon'ble NCLT for seeking necessary directions against you.

Thanks & Regards

Nilesh Sharma
For Dream Procon Private Limited
(Under CIR Process)

Nilesh Sharma
Authorized Signatory

Nilesh Sharma
Resolution Professional
Dream Procon Private Limited
D-54, First Floor, Defence Colony, New Delhi - 110024
IBBI/IP-002/IP-N00104/2017-18/10232
nilesh.sharma@witworthipe.com / ip.dreamprocon@gmail.com

Enclosed:

- (a) Copy of order of Hon'ble NCLT, New Delhi dated 6.09.2019; (Annexure "I")
- (b) Copy of order of Hon'ble NCLT, New Delhi dated 16.01.2020 (Annexure "II")
- (c) Details of vehicles belonging to the Corporate Debtor (Annexure "III")

Regd. & Corp. off.: D-54, 1st Floor, Defence Colony, New Delhi-110024
Mob.:+91-9811418701 •Tel.: 011-40567644 • Email: nilesh.sharma@witworthipe.com
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CIN: U74999DL2017PTC314322

Ann-I
ANNEXURE - I

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENCH-III
NEW DELHI

IB-1771/(ND)/2018

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

Ms. Priyanshi Arora,
E-50, Naraina Vihar,
New Delhi-110028

.....Financial Creditor

VERSUS

M/s Dream Procon Pvt. Ltd.,
702-704, D-Mall, Netaji Subhash Place,
Pitampura,
New Delhi-110034.

..... Corporate Debtor

Coram:

R. VARADHARAJAN,
Hon'ble Member (Judicial)

K.K. VOHRA,
Hon'ble Member (Technical)

IB 1771/(ND)/2018

Ms. Priyanshi Arora vs M/s. Dream Procon Pvt
Ltd.

1/1/18

①

Counsel for the Petitioners: Mr. Vaibhav Tyagi, Advocate
Counsel for the Respondent: Mr. Gaurav Rana, Mr. Ashutosh
Gupta, Mr. Abhishek Aggarwal,
Advocates

Delivered on: 06.09.2019

ORDER

(Order dictated in the open Court)

A Petition has been filed by the Financial Creditor under the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for brevity called 'AAA Rules, 2016.'

2. Part-I of the Petition discloses that the Petitioner is an individual. Part-II of the Petition discloses details of the Corporate Debtor (CD) from which it is evident that the CD was incorporated on 25.5.2011 and presently the authorized share capital of the CD is stated to be Rs.20000000/- and the paid up share capital of Rs.10100000/- respectively. The registered office of the CD is stated to be situated at 811, 8th Floor, Krishna Apra Plaza, Tower -1, Netaji Subhash Place, Pitampura, Delhi, New Delhi.

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3. Part-III of the Petition discloses that one Mr. Manish Gupta has been proposed as the Interim Resolution Professional (IRP).

4. Part-IV of the Petition discloses details of the Financial Debt from which it is seen that the total amount of debt payable by the CD is stated to be in a sum of Rs.48,04,700/- as on 21.11.2018 along with interest at the rate of 24% per annum till the date of realization. It is averred that FC and the CD entered into an Agreement in the year 2015 for a sum of Rs.40,00,000/- which was to be returned after expiry of 1 year along with interest/assured return in relation to the amount made available. It is further averred that post dated cheques were given and that the CD had also provided residential property bearing C3-001, Victory Ace, Plot No.GH-02, Sector 143, Noida as security option to the CD to return the investment as well as the assured return payment. It is averred that in terms of clause 9 of the Agreement, CD was liable to buy back the property from the FC after the expiry of 1 year. It is also highlighted in the Petition that all due payments in relation to the assured return were made by the CD upto 2016. Subsequent to the said year, there has been default on the part of CD and in the circumstances an Article of Agreement dated 27.06.2017 was entered into between FC and CD whereby it was agreed between the parties that the property as described in the said Agreement comprising to the extent of 1895 sq.ft. has been allotted to the FC by the CD with a total

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consideration of Rs.40,00,000/- and that under the said Article of Agreement and more particularly the CD was required to complete the development and construction of the flats within 30 months with further extension period of 3-6 months in case the development and construction of the flats is not able to be completed within the period of 30 months. Further, the onus is also placed upon the CD that after the completion of the residential complex, FC would be intimated to take over possession of the flats within 30 days thereafter and the other consequences in relation to registration of sub-lease deed and documentation to follow. Despite these Agreements since neither the money was repaid nor the possession of the flats was given or offered, the Petition in view of default as alleged to have been committed has been filed seeking for the initiation of Corporate Insolvency Resolution Process (CIRP) as against the CD.

6. The CD has filed a reply upon notice wherein the CD seeks to defend its cause on the basis that a sum of Rs.48,04,700/- being the claim due and payable by the CD to the FC, a contention is sought to be raised on the part of CD in relation to the completion, development and construction of flats referring to para 16.8 of the Agreement as entered into between the parties that in view of the circumstances beyond the control of the CD, the CD was not able to complete the project in as much as the CD was precluded by order of Hon'ble High Court dated 1.8.2017

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restraining the CD from alienating the property in view of dispute in existence as between the land owner and the developer namely, the CD. The fulcrum of the defence of CD seems to be the above contention as evident from the objections which have been raised in relation to the filing of the Petition.

7. Both the parties were heard by this Tribunal in detail. Ld. Counsel for the Petitioner/FC reiterated the submissions based on the pleadings which have been filed by the Petitioner. It is brought to the notice of this Tribunal by Ld. Counsel for the Petitioner that a sum of Rs.40,00,000/- which was originally made available as an investment by the Petitioner in relation to the project was required to be returned after the period of 1 year. Further, the assured return was also offered by the CD which was paid till the year 2015 and subsequently, there has been a default. Thus, taking into consideration the default the Petitioner/FC had the option to go in for taking the possession of the flats as contemplated under clause 4 of the Agreement i.e. which provides the period of 30 months with a further extension of 3-6 months, as contemplated under the Agreement as entered into between FC and CD. However, as the home buyers in view of the default committed in handing over the property as contemplated, there has been a default on the part of the CD as envisaged under the provisions of IBC,2016. However, Ld. Counsel for the CD vehemently contended that the FC is

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required to come either as a person who has granted the loan being a commercial borrowing or in the capacity of a home buyer under the provisions of Section 5(8)(f) of IBC,2016. However, we are not in a position to appreciate the contention as made by Ld. Counsel for the CD, in view of the recent Judgement passed by the Hon'ble Supreme Court in the matter of Pioneer Urban Land and Infrastructure Ltd. & Anr. vs. Union of India & Ors. in Writ Petition (Civil) No.43 of 2019 dated 9.8.2019 as under the provisions of IBC,2016 the various sums which have been made to the CD is in relation to financing the project which entitles them to be treated as 'Financial Creditors'. Further, even in relation to assured return as undertaken by the CD, taking into consideration the decision of Hon'ble National Company Law Appellate Tribunal a home buyer is entitled to maintain a Petition as the amounts have been paid as against consideration for the time value for money and thus in the capacity of the home buyer an expectation to either hand over the property or to entertain the claim for the refund of amount along with compensation from the CD on the expiry of the time limit failing which there is a 'default', is also further required to be noted that the Petitioner is not a party to the dispute as between the CD and the land owner. Under the circumstances, Petitioner is not required to await for the decision of the Hon'ble High Court of Delhi for getting refund if the CD is not able to give possession. In the

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circumstances, we do not find any exception to be made as submitted by the CD that there is impossibility suffered by the CD. If that being so, the CD is required to return back the money which was collected by it by way of financing the project and ⁱⁿ effect a commercial borrowing as envisaged under the provisions of IBC, 2016 more particularly, under Section 5(8)(f) of IBC, 2016. Having failed to do so, we are of the considered view that default has been committed on the part of CD in relation to the claim as made by the Petitioner which warrants the initiation of the CIRP as against the CD. The petition stands admitted. *Ua*

8. Shri Manish Gupta, registered with IBBI having registration number IBBI/PA-001/IP-P0113/2018-2019/11826, email: ip.manishgupta31@gmail.com, Mob.9810215494, is appointed as the Interim Resolution Professional (IRP). A declaration in Form 2 has been filed by the above said IRP annexed at page 82-83 of the typed set. The IRP shall strictly act in accordance with provisions of IBC, 2016 and the attendant rules and regulations framed there under in relation to conduct of IRP and as well as in relation to the CIRP of the CD.

9. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

However during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

The duration of the period of moratorium shall be as provided in Section 14(4) of IBC, 2016 and for ready reference reproduced as follows:-

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

10. Based on the above terms, the Application/Petition stands admitted in terms of Section 7(5)(i) of IBC, 2016 and the moratorium shall come into effect as of this date. A copy of the order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition a copy of the order shall also be forwarded to IRP named above for initiation of action and to IBBI for its records.

- Sol -
(K.K. VOHRA,
MEMBER(Technical),

- Sol -
(R.VARADHARAJAN)
MEMBER(Judicial)

U.D.Mehta
06.09.2019

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ANNEXURE - II

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III**

Item No.-110

IB-1771(ND)/2018

C.A No. 366/CII/ND/2020

IN THE MATTER OF:

Ms. Priyanshi Arora

Vs.

M/s. Dream Procon Pvt. Ltd.

....APPLICANT

....RESPONDENT

SECTION

U/s 7 IBC Code, 2016

Order delivered on 16.01.2020

CORAM:

**CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)
MS. SUMITA PURKAYASTHA
MEMBER (TECHNICAL)**

PRESENT:

For the Applicant

: Mr. Sahil Sethi, Advocate

For the Respondent

:

For the Intervener

:

ORDER

CA No.366/C-III/ND/2020

IN

IB-1771(ND)/2018

The first CA is filed by the CoC seeking the order for the appointment of Mr. Nallesh Sharma as the Resolution Professional replacing the IRP Mr. Manish Gupta. The Application is supported by the resolution of the CoC that came to be passed in 2nd meeting of the CoC held on 19.12.2019. The remuneration fixed is Rs.3.00 lakhs per month from the date of appointment till the date he continues to hold the charge of the Resolution Professional. An amount of Rs.1.50 lakhs per month is payable to Witworth Insolvency Professional Private Limited for providing infrastructure support to the Resolution Professional. The resolution has been passed by the CoC with 95% voting shares. Therefore, Mr. Nallesh Sharma is hereby appointed



as the Resolution Professional on the terms as set out in the resolution passed by the CoC. The IRP is directed to hand over record of the Corporate Debtor to the Resolution Professional within week's time after receiving the copy of this order. Accordingly, the CA stands disposed of.

CA No.933/C-III/ND/2019

IN

18-1771(ND)/2018

In the second CA, prayer is made to appoint Mr.S.Prabhakar, Insolvency Professional as authorized representative of class of creditors of homebuyers in terms of Section 21(6A)(b) of the I&B Code, 2016 read with Regulation 16A(2) of the Insolvency Regulations, 2016. Counsel for the Resolution Professional has submitted that there are 250 claimants being the homebuyers and at the time of filing the claims, majority of them viz. 154 in numbers constitutes 65.57% of the voting share of the home buyers have given preference for appointment of Mr. S.Prabhakar as AR. Therefore, Mr. S.Prabhakar, Resolution Professional, whose consent has been obtained on 17.10.2019, is hereby appointed as Authorized Representative for the homebuyers with the direction to to the RP to facilitate the Authorized Representative at the time of voting in the CoC as per the instructions that may be being given by the home buyers for the purpose of voting. Accordingly, the CA stands disposed of.

-sd -
(SUMITA PURKAYASTHA)
MEMBER (TECHNICAL)



sd -
(JIL. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)

U.D. Mahra

23.1.2020
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110008

ANNEXURE - III

DREAM PROCON PRIVATE LIMITED

(UNDERGOING CORPORATE INSOLVENCY RESOLUTION PROCESS)

DETAILS OF VEHICLES BELONGING TO THE CORPORATE DEBTOR

S.No.	Particulars	Original Cost	Vehicle Regd. No.
	CAR		
1.	BMW 320 D	34,42,283.00	DL2CQ9810
2.	Boloro Zix	8,57,026.00	DL8CAC1575
3.	Corolla Altis	15,11,191.00	HR05AM7867
4.	Honda City	9,77,516.00	DL3CBE9263
5.	Hyundai I-20	6,98,521.00	DL9CAA4905
6.	Innova Car	13,44,609.00	UP16AV2115
7.	Scorpio Car	7,60,643.00	NA
8.	Kanter	13,22,524.00	UP16CT1782
9.	Fortuner	32,69,935.00	UP16BL3573
10.	Fortuner	34,30,700.00	NA
11.	Fortuner	31,83,471.00	HR26DG3216
12.	Mercedes	79,43,868.00	UP16BN0013
	Total	2,87,42,287.00	

