

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS INSOLVENCY JURISDICTION**

NOTICE OF MOTION NO.19 OF 2017

IN

INSOLVENCY NOTICE NO.30 OF 2016

Bhawanishankar Harishchandra SharmaApplicant/Org. Judg. Debtor
V/s.

Arpan Leasing Company LimitedPetitioning Creditor

WITH

NOTICE OF MOTION NO.25 OF 2017

IN

INSOLVENCY PETITION NO.19 OF 2016

Bhawanishankar Harishchandra SharmaApplicant/Org. Judg. Debtor
V/s.

Arpan Leasing Company LimitedPetitioning Creditor

Mr. Bhaven Gada a/w. Mr. Vishal Thakkar and Ms. Anjali Tiwari i/b. V. Thakers for applicant/original judgment debtor.
Ms. Jaishree Surati i/b. S. Ashwinikumar and Co. for petitioning creditor.
Mr. M.D. Narvekar, Official Assignee present.

CORAM : K.R.SHRIRAM, J.

DATE : 17th APRIL, 2018

P.C.:

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1 Ms. Surati, counsel for petitioning creditor states that the name of the company has been struck off from the register of companies as it appears from the company master data maintained by the Ministry of Corporate Affairs. Ms. Surati further states that therefore, they cannot represent petitioning creditor.

2 Mr. Gada, counsel for applicant states that the notice of motion, therefore, be allowed since there is nobody opposing the notice of motion

and since petitioning creditor also has been struck off the register of companies.

3 Therefore, notice of motion is allowed and accordingly disposed in terms of prayer clauses – (a), (b) and (c) which read as under :

(a) That this Hon'ble Court be pleased to condone delay, if any, in making the present application;

(b) That this Hon'ble Court be pleased to review and/or rescind and/or vary and/or recall the order dated 20th December, 2016;

(c) Without prejudice and in the alternative to prayer clause (b), this Hon'ble Court be pleased to annul the adjudication of applicant as an insolvent.

4 In view of the above order, insolvency petition no.19 of 2016 is restored to file.

INSOLVENCY PETITION NO.19 OF 2016

Since petitioning creditor has been struck off the register maintained by the Registrar of Companies, this petition stands dismissed.

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Since the petition itself has been dismissed, this notice of motion is allowed and accordingly disposed in terms of prayer clauses – (a) and (b) which read as under :

(a) That the delay of 176 days in making this application be condoned.

(b) That the Insolvency Notice No.N/30 of 2016 be set aside.

GENERAL

1 Official Assignee states that substantial man hours has been spent by Official Assignee and his staff on this matter and therefore, judgment debtor/applicant should be directed to pay some cost. Mr. Gada left it to the Court to decide how much cost should be paid.

2 Applicant/judgment debtor to pay a sum of Rs.1 lakh as cost to Official Assignee by way of pay order/demand draft drawn in favour of Official Assignee and this amount to be paid within two weeks from today. Official Assignee is permitted to utilise this amount for the office administrative expenses.

3 It is made clear that the above order in the notices of motion and in the petition will come into effect only after this amount is paid.

(K.R. SHRIRAM, J.)