

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 824 of 2019**

**IN THE MATTER OF:**

**Voyages Booth**

**...Appellant**

**Versus**

**HWT Travels Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant :                    Mr. Rajan Chaudhary, Advocate**

**ORDER**

**16.08.2019**            Learned counsel for the Appellant submits that the certified copy of the impugned order dated 4<sup>th</sup> July, 2019 had been handed over on 24<sup>th</sup> July, 2019 and it is also noticed from the certified copy issued by the National Company Law Tribunal, New Delhi Bench-III. He further submits that the appeal has been filed on 7<sup>th</sup> August, 2019 and thereby there is no delay in filing if it is counted from the date of receipt of the certified copy but formal condonation of delay application has been filed.

Having heard learned counsel for the appellant and taking into consideration that the certified copy has been delivered on 24<sup>th</sup> July, 2019, we find that there is no delay in filing the appeal.

I.A. No. 2504 of 2019 stands disposed of.

The Appellant – ‘Voyages Booth’ preferred an application u/s 9 of the ‘Insolvency and Bankruptcy Code, 2019 (for short, ‘the I&B Code’) against the Respondent - ‘HWT Travels Private Limited. The Adjudicating Authority

(National Company Law Tribunal), New Delhi, Bench-III by the impugned order dated 4<sup>th</sup> July, 2019 dismissed the application taking into consideration the stand taken by the 'Corporate Debtor' and in absence of any record to suggest that the Appellant comes within the meaning of 'Operational Creditor', referred to the reply, which mentioned:

- “ii. The Applicant has not submitted any documents in which there is any specific word “of grant of agency and working for the company” mentioned. Further, the Applicant has not submitted a single paper in which there is any specification regarding assignment of any kind of job by the answering Respondent to the Applicant.*
- iii. The Respondents deny any relation with the Applicant. It is noteworthy that the Applicant has not submitted a single document showing that any transaction between the parties had ever occurred. Moreover, the Applicant has miserably failed to file any bills/invoices/demands raised by the Applicant.”*

In paragraph 3 of the Impugned order, it was held :

- “3. We have gone through the details of documents filed by both the parties and heard the*

*arguments of both the counsels. The agreement placed on record by the Applicant is incomplete and not signed by either party and thus, not conclusive regarding the relationship of the two parties. The Applicant has not enclosed any invoices raised by the Applicant and payable by the Respondent for the services rendered. The deduction of TDS is not sufficient for us to infer the nature of relationship that existed between the parties. Thus, the Applicant has failed to bring on record anything to establish the transactions which took place between the parties and that debt is due to the Applicant from the Respondent as a consequence of the transaction.”*

Learned counsel for the Appellant relied on the ‘Statement of Accounts’ but they do not reflect any relationship of ‘Operational Creditor’ and the ‘Corporate Debtor’. It alleged that the Appellant was working on behalf of the ‘Corporate Debtor’. Reliance has been placed on the document dated 29<sup>th</sup> January, 2016, which is extracted below:

*Additional Document's*

**UAN No. - AABCH0968G**  
**Service Tax No. - AABCH0968GSD003**  
**RegL No. - U63040DL2004PTC110592**


# Hariworld

e- Unrivaled Expertise

**(A Unit of HWT Travels Private Limited)**

310, Prakash Deep Building, 7 Tolstoy Marg, New Delhi - 110001  
Tel. : +91-11-43638888, Fax : +51-11-43638899

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In connection with my application for Agency (including contract for services), I understand that consumer reports or investigative consumer reports which may contain public record information may be requested or made on me including consumer credit, criminal records, driving record, education, prior employer verification, workers compensation claims and others. These reports will include experience along with reasons for termination of past employment. Further, I understand that you will be requesting information from various States, Local and Central Agencies, which contain my past activities. I hereby authorize without reservation, any party or agency contacted by Hariworld Travels Pvt. Ltd, furnish the above-mentioned information. I further authorize ongoing procurement of the above-mentioned reports at any time during my contract period. I understand to aid in the proper identification of my file or records, the following information, as well as other information that is necessary

Last Name Mishra First Nishant Middle Kumar Street  
 Address Unit no. 42 JMD Megapalis Sector 49  
 City Gurgaon State Haryana ZIP 122010 County Tandora  
 Aachar card/Voter ID (PAN) BFLPM4401Q State U.P. FOR IDENTIFICATION PURPOSES  
 Date of Birth 02/06/87 Gender M Former  
 Names \_\_\_\_\_  
 Signature [Signature] Date 29/01/16

**Taxes and Security Deposit:**

- 1) As per the income Tax notification 10 % TDS shall be deducted in case of credit card commission that will be payable to the Agency.
- 2) Government Service Tax of 14.5% shall be levied on the issuance charges.
- 3) The total security deposit of USD 20,000 shall be retained out of which USD 10,000 has to be paid up front on the approval of the Agency registration.
- 4) Security deposit may increase in accordance with growth in the total Gross sale of the Agency.
- 5) In case of the closure of the business with Agency the security deposit shall be refunded after 180 days of the last transaction that has happened with the airline and/or Hariworld Travels.
- 6) At the time of the closure or final settlement all the partners /directors of the firm whether currently associated or not should be present physically or will have to give a written approval to settle the accounts.

PLACE: NEW DELHI  
DATED: 29.01.2016

M/S. VOYAGES BOOTH

[Signature]  
Partner

M/S. VOYAGES BOOTH

[Signature]  
Partner

The aforesaid document do not suggest that the 'Corporate Debtor' engaged the Appellant as the Agency of the company. It is a mere information

given to the Appellant but no acceptance of the same was placed on record before the Adjudicating Authority or before this Appellate Tribunal.

For the reason aforesaid, we are not inclined to interfere with the aforesaid order. The appeal is dismissed. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice A.I.S. Cheema ]  
Member (Judicial)

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc