

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**IA No.71/2021  
And  
CP (IB) No.138/Chd/Hry/2019**

**Under Section 9 of the Insolvency  
and Bankruptcy Code, 2016**

**In the matter of :**

**E2E Telelink India Pvt. Ltd.**  
having its registered office at  
A-5, 3<sup>rd</sup> Floor, Old Arjun Nagar,  
Near PNB Street No.2,  
New Delhi - 110051

...Petitioner/Operational Creditor

Versus

**Cambridge Energy Resource Pvt. Ltd.**  
having its registered office at  
Unit No.1166 and 1167, 11<sup>th</sup> Floor,  
Tower B, Spaze I-Tech Park,  
Sohna Road, Gurgaon, Haryana - 122018

...Respondent/Corporate Debtor

**Judgement delivered on: 26.03.2021**

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)  
HON'BLE MR.RAGHU NAYYAR, MEMBER (TECHNICAL)**

For the Petitioner : Mr. Anand Chhibbar, Senior Advocate  
with Mr. Vaibhav Sahni, Advocate

For the Respondent : 1. Mr. Rakesh Kumar, Advocate  
2. Mr. Deepankur Sharma, Advocate

**Per: Ajay Kumar Vatsavayi, Member (Judicial)**

**JUDGEMENT**

**IA No.71/2021**

The instant application is filed by E2E Telelink India Pvt. Ltd.  
under Section 60(5) of Insolvency & Bankruptcy Code, 2016 seeking  
substitution of the proposed Interim Resolution Professional in CP (IB)

No.138/Chd/Hry/2019. It is stated that the applicant has filed a petition under Section 9 of the IBC, 2016 and in Part-III of Form 5, “Mr. Sameer Rastogi” has been proposed as a Resolution Professional. It is mentioned in the application that the proposed Interim Resolution Professional shows reluctance due to COVID-19 and weak immune system. The applicant has proposed “Mr. Vekas Kumar Garg” bearing Registration No.IBBI/IPA-002/IP-N00738/2018-19/1229 as Resolution Professional in place of previously proposed Interim Resolution Professional. The consent of Mr. Vekas Kumar Garg in Form 2 has been attached as Annexure-1 of the application. It is deposed by the Interim Resolution Professional that there are no disciplinary proceedings pending against him with the Board or ICSI Institute of Insolvency Professionals.

2. In view of the above mentioned facts, we allow the instant IA and the name of the earlier proposed Interim Resolution Professional “Mr. Sameer Rastogi” be substituted with “Mr. Vekas Kumar Garg”.

3. Accordingly, IA No.71/2021 is disposed of.

**CP (IB) No.138/Chd/Hry/2019**

The instant petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, (for short hereinafter referred to as ‘**Code**’) read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for short hereinafter referred to as ‘**Rules**’) by E2E Telelink India Pvt. Ltd. (**Operational Creditor**), for initiating Corporate Insolvency Resolution Process (**CIRP**) in the case of Cambridge Energy Resource Pvt. Ltd. (**Corporate Debtor**). The registered address of the operational creditor is A-5, 3<sup>rd</sup> Floor, Old Arjun Nagar, Near PNB Street No.2, New Delhi - 110051. There is an affidavit in support of the contents of the application which is from pages 22 to 24 of the petition. The application has been filed in Form 5 as prescribed in

Rule 6(1) of the Rules. The petitioner-operational creditor has authorized Mr. Yuvraj Gaurav, (Admin of Operational Creditor) to file petition on its behalf. The copy of the Board Resolution dated 15.03.2019 passed by the Board of Directors of Operational Creditor is at Annexure A-1 of the petition.

2. M/s Cambridge Energy Resource Pvt. Ltd. (for short hereinafter referred to as the '**respondent**' and/or '**corporate debtor**') is a company incorporated under the provisions of Companies Act, 2013 with authorized share capital of ₹15,00,00,000/- and paid up share capital of ₹8,76,40,720/-. The CIN of the respondent-corporate debtor is U40106HR2009PTC039660 and its registered office is situated in Gurgaon which lies in the State of Haryana and therefore, the matter falls within the territorial jurisdiction of this Tribunal. Copy of the master data of the respondent-corporate debtor is at Annexure A-12 (Page No.147) of the petition.

3. The facts of the case, briefly, as stated in the petition, are that the petitioner-operational creditor is engaged in the business of building activities that includes completion of construction and repairs. In continuation of its business activities, operational creditor provided services to the Corporate Debtor and also raised various invoices against the same which are appended as Annexure A-4 of the petition. The petitioner has also maintained a ledger account of Corporate Debtor which is found as Annexure A-3 of the petition. It is stated that Operational Creditor had sent various reminder letters dated 15.01.2019 and 31.01.2019 for clearing the outstanding dues against invoices raised by petitioner. Copies of letters dated 15.01.2019 and 31.01.2019 are appended as Annexure A-5 (Colly) of the petition. It is submitted that a joint meeting took place in between the parties and a letter dated 15.02.2019 has

been issued by the Corporate Debtor confirming the outstanding due amounting to ₹17,68,928/- towards the petitioner-operational creditor. Accordingly, In Part-IV of Form 5, the total amount claimed to be in default is ₹22,16,395/- (including ₹17,68,928/- as principal amount and ₹4,47,467/- as interest @24% per annum) and the amount is stated to be due on 14.02.2019. The working computation of amount and interest thereon is attached as Annexure A-2 of the petition.

4. A demand notice in Form No.3/4 dated 08.03.2019 is stated to have been served upon the Corporate Debtor by hand and as well as by speed post (Annexure A-7 of the petition). The corporate debtor vide this demand notice was called upon to repay the total unpaid operational debt (in default) of ₹22,16,395/- within 10 days from the receipt of the notice. The demand notice was accompanied by computation of interest, copy of ledger account maintained by Operational Creditor, copy of invoices, reminder letters and letter of confirmation of debt issued by Corporate Debtor. The copy of acknowledgement showing receipt of demand notice delivered to Corporate Debtor is part of Annexure A-7 of the petition (Page No.77). Copy of postal receipts and tracking reports of notice sent to Corporate Debtor are **at Page 109 and 109A of the petition.**

5. It is deposed by the petitioner that the Operational Creditor has not received reply to demand notice or any notice relating to the dispute of the unpaid operational debt. The affidavit is appended with the petition at Annexure A-10 (page Nos.110 to 112).

6. It is submitted that the respondent-corporate debtor failed to comply with the demand notice dated 08.03.2019 and has not made any outstanding payment and hence this petition.

7. The operational creditor has also filed a Statement of Bank Account maintained with “HDFC Bank” ranging from 01.04.2018 to 12.03.2019 as Annexure A-10 of the petition. It is stated that Operational Creditor has not received any payment from the Corporate Debtor after service of demand notice.

8. In Part-III of Form 5, the Operational Creditor has proposed Mr. Sameer Rastogi, bearing Registration No. IBBI/IPA-002/IP-N00226/2017-18/10677 as Interim Resolution Professional. Petitioner-Operational Creditor has also moved an application vide Diary No.00239 dated 10.02.2021 seeking substitution of the earlier proposed Interim Resolution Professional with Mr. Vekas Kumar Garg bearing Registration No. IBBI/IPA-002/IP-N00738/2018-19/1229 dated 05.02.2021. The consent of Mr. Vekas Kumar Garg (proposed Interim Resolution Professional) is furnished in Form 2 and the same is placed at Annexure-1 of aforesaid application. It has been stated in Form 2 that no disciplinary proceedings are pending against him with the Board or ICSI Institute of Insolvency Professionals.

9. Notice of this petition was received by the Corporate Debtor on 12.04.2019 and Corporate Debtor has filed a reply vide Diary No.2785 dated 31.05.2019. It has been stated in the reply that the said amount is payable by Corporate Debtor but due to bad financial conditions, respondent is unable to pay the same.

10. We have heard the learned counsel for the operational creditor as well as corporate debtor and have also perused the records.

11. The first issue for consideration is whether the demand notice in Form No.3/4 dated 08.03.2019 was properly served. The demand notice dated 08.03.2019 was sent by hand delivery. Copy of acknowledgement showing receipt of demand notice by the Corporate Debtor is found at page 77 of the petition. The postal receipt and tracking report sent by operational creditor are found to be attached at Page 109-109A (Annexure-9) of the petition.

12. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. The respondent corporate debtor has filed reply and admitted the incidence of debt towards Operational Creditor. Thus, there is no dispute as to the liability of the corporate debtor towards the operational creditor.

13. We have gone through the contents of the application filed in Form No.5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of ₹22,16,365/-. It is observed that Operational Creditor has issued various invoices (Annexure A-4) for services provided to Corporate Debtor. Petitioner-Operational Creditor has issued letters dated 15.01.2019 and 31.08.2019 to Corporate Debtor for clearing overdue amount. Afterwards, Corporate Debtor issued a letter dated 15.02.2019 in which an amount of ₹17,68,926/- has been confirmed towards operational creditor (Annexure A-6) Petitioner-Operational Creditor has also issued demand notice in Form-3/4 dated 08.03.2019 (Annexure A-7) which was duly received by the Corporate Debtor. An affidavit dated 29.03.2019 (Annexure A-10) has been furnished by the petitioner stating that no reply to demand notice has been received nor any notice of dispute has been received by Operational Creditor.

We have held above that the demand notice in Form No.3/4 was properly delivered by the Operational Creditor and no pre-existing dispute is proved.

14. It has been shown that the corporate debtor has failed to make payment of the aforesaid amount due as mentioned in the statutory notice till date. It is also observed that the conditions under Section 9 of the Code stand satisfied. The petitioner-operational creditor states that from the abovementioned facts it is clear that the liability of the respondent-corporate debtor is undisputed. Accordingly, the petitioner proved the debt and the default, which is more than ₹1 lakh by the respondent-corporate debtor.

15. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIR Process in the case of the Corporate Debtor, M/s Cambridge Energy Resource Pvt. Ltd. and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

16. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Operational 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.

17. It is further directed that 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. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

18. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33 as the case may be.

19. The Law Research Associate of this Tribunal has checked the credentials of Mr. Vekas Kumar Garg and there is nothing adverse found against him. In view of the above, we appoint Mr. Vekas Kumar Garg bearing Registration No. IBBI/IPA-002/IP-N00738/2018-19/1229, e-mail: vikasgarg\_k@rediffmail.com, as the Interim Resolution Professional with the following directions: -



- i.) The term of appointment of Mr. Vekas Kumar Garg shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;
- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his

profession and as an Insolvency Professional with high standards of ethics and moral;

- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- vi.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall

convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

- vii.) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

20. A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his email address forthwith.

Sd/-  
(Raghu Nayyar)  
Member (Technical)

Sd/-  
(Ajay Kumar Vatsavayi)  
Member (Judicial)

March 26, 2021

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