

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 2347/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

India Printing Works

India Printing House, 42, G. D Ambekar

Marg Wadala, Mumbai-400031

.... Petitioner

V/s.

Vidyasagar Learning Private Limited

54, Mahalaxmi Niwas, 1st Floor, 1st Lane,

D.V. Pradhan Road, Hindu Colony, Dadar

East Mumbai-400014.

.... Corporate Debtor

Order delivered on: 22.10.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Adv. Prashant H. Chande

For the Corporate Debtor: Adv. Sachit kumar i/b A&P Partners

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This company Petition is filed by India Printing Works (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Vidyasagar Learning Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the extent of Rs. 26,57,439 (Twenty-Six Lakh Fifty-Seven Thousand and Four Hundred and Thirty-Nine), Principal being Rs. 21,47,814/- and Interest amounting to Rs 5,09,625, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The petition reveals that the Petitioner is engaged in printing business. The Corporate Debtor approached the Petitioner for printing study material, answer sheets, question papers, booklet of various subject like physics, chemistry, biology, math etc. for the business of Corporate Debtor who is engaged in imparting education/learning. The Petitioner raised various invoices on the Corporate Debtor.
3. The Corporate Debtor has made a part-payment of Rs. 21,57,063/- in respect of the said invoices and the balance amount of Rs.26,57,439/-is due and payable by the Corporate Debtor, including interest @ 18% per annum on the delayed payments.
4. The Petitioner on 08.04.2019 issued a demand notice to the Corporate Debtor for the payment of outstanding dues.
5. The Corporate Debtor, by its letter dated nil, in response to the above demand notice replied as below:

"Instead of giving a legal response to the notice sent by your advocate (PHC/5/2019) dated 8 April 2019), I am directly writing this letter to you personally

Let me assert unequivocally that any legal precipitation from your side will seriously impair the dues recovery process. With the court proceedings getting activated, this could at best mean partial, if any, recovery of your dues after legal due process which may extend to 6-12 months to the very least. In worse case scenario, no recovery of any dues may happen if the proceeds of liquidation are exhausted or distributed without all of the creditors getting paid.

In light of the above and with our stated intention to clear all your dues (as per what we discussed in person at my office) I am proposing to immediately (by April 30) clear 4 lacs and the complete balance dues by June 30, 2019.

I hope better sense will prevail and considering the fact that Vidyasagar Classes and India Printing Works have been business associates for at least last 10-15 years, this matter is resolved without legal innervation. However, should you choose to press the legal button, there will be no more personal communication from my side and we will let the courts decide"

6. The Counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. Subsequently, the counsel for the Petitioner intimated the date of hearing to the Corporate Debtor.

7. The Petitioner has filed several invoices which captured the printing work undertaken by them for the Corporate Debtor, this shows that there is liability of payment of the said invoices by the Corporate Debtor. They have also made part payment; thus, it is proved that there is a debt and the Corporate Debtor has defaulted the payment of outstanding dues under the several invoices.

8. On 30.08.2019, both sides present. The counsel for the Petitioner submitted that the Corporate Debtor defaulted in making the payment to the Petitioner who is a Medium Small and Micro Enterprise (MSME). It is further submitted that the Petitioner being an MSME entitled to charge interest for the delayed payments. The counsel for the Corporate Debtor admitted the liability and default, hence the petition deserves admission.

9. One Mr. Anish Gupta, residing at 501, Ruby Isle, Royal Palms, Aaray Milk Colony, Goregaon East, Mumbai; having Registration No. IBBI/IPA-001/IP-P-01540/2019-2020/12473 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

10. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

- (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor

where such property is occupied by or in the possession of the Corporate Debtor.

- (b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) that the order of moratorium shall have effect from 22.10.2019 till the completion of the CIRP 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.
- (e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.
- (f) that this Bench hereby appoints Mr. Anish Gupta, residing at 501, Ruby Isle, Royal Palms, Aaray Milk Colony, Goregaon East, Mumbai; having Registration No. IBBI/IPA-001/IP-P-01540/2019-2020/12473 as Interim Resolution Professional to carry the functions as mentioned under the Code.

11. Accordingly, this Petition is admitted.

12. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

Sd/-
V. Nallasenapathy
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)