

NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD

SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 09.02.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 263/9/HDB/2020
NAME OF THE COMPANY	Mautika Energy Pvt Ltd
NAME OF THE PETITIONER(S)	PNS Venkatesh
NAME OF THE RESPONDENT(S)	Mautika Energy Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

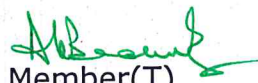
Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders passed vide separate orders.

CP(IB)No.263/9/HDB/2020 is admitted.


Member(T)


Member(J)

Pavani

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.263/9/HDB/2020

Petition under section 9 of IBC, 2016

Read with Rule 6 of I & B (AAA) Rules, 2016

BETWEEN

Shri P.N.S.Venkatesh
S/o.Sh.P.S.R.K.Sreshty,
D.NO.12-35, FCI Colony,
Vasanta Nagar, Sarpavaram Road,
Kakinada-533005.

.. **Petitioner/
Operational Creditor**

AND

M/s Mautkika Energy Private Limited
Plot No.304-L-III, II Floor,
Road No.78, Jubilee Hills,
Hyderabad-500 033.

.. **Respondent
Corporate Debtor**

Date of order: 09.02.2021

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / counsels present:

For the Petitioner: Ms.J.V.L.Bharati, Advocate

Per: Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Heard on: 01.02.2021

AVERMENTS

This petition is filed by Mr.P.N.S.Venkatesh, who is the Operational Creditor, stating that an amount of Rs.5,36,000/- (Rupees Five Lakhs Thirty six Thousand only) @18% interest

is due from the Corporate Debtor towards supply of Napier grass as on 20.05.2019. Hence this petition is filed under section 9 of Insolvency and Bankruptcy Code, 2016, read with Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments made in the petition are as follows:
 - a. The Operational Creditor is engaged in supply of Napier Grass to Agri Firms on cash and credit basis depending upon the client and quantity of order. Operational creditor supplied material to corporate debtor for last 1-2 years. He used to supply on job contract basis and corporate debtor used to clear bills within reasonable time.
 - b. It is averred that corporate debtor requested operational creditor for huge supply of Napier grass as they are intending to export to other states. Thus Operational creditor entered into an MOU dated 17.04.2019 with Corporate Debtor for supply of Napier grass on 30 days credit with a condition that interest to be paid @18% beyond 30 days.
 - c. Thus operational creditor based on MOU supplied 579.459 Kgs of Napier Grass worth Rs.5.36 Lakhs by credit invoice dated 20.05.2019. Invoices raised is annexed at ANNEXURE 3 to the petition.
 - d. Copy of letter sent to corporate debtor dated 20.08.2019 for payment of dues is annexed as ANNEXURE 4 to the petition. Subsequently,





Applicant/Operational creditor received a reply from corporate debtor dated 13.09.2019 and 20.12.2019 requesting time for making payment.

- e. Operational creditor thus issued Form-3 and Form-4 which is annexed as Annexure-6 to the petition. Since there is no effective payment by the Corporate Debtor, this petition is preferred.
- f. Operational creditor has also filed a memo dated 03.02.2021 stating that the corporate debtor was unable to make payment due to huge losses though the operational creditor is willing for settlement. Thus the Applicant approached the Tribunal for initiating the CIRP process on the corporate debtor

COUNTER AFFIDAVIT DATED 18.11.2020 FILED BY THE CORPORATE DEBTOR.

3. The respondent-corporate debtor has filed counter affidavit dated 18.11.2020. The averments made in the counter are as follows:
 - a. Corporate Debtor has accepted that the petitioner has supplied Napier Grass materials and thus raised the bill. But due to unethical competition in market and stringent economic conditions, they are not able to clear the bill.
 - b. The Corporate Debtor further stated that he received Form-3 notice and replied that he is not in a position to make payment. Since the financial position is weak they are not in a position to make payments to other vendors also. Thus he requested the applicant for relief in the present financial circumstances.
4. Heard the Counsel for Operational Creditor. The Petitioner is Operational Creditor. The Petitioner filed

the present petition under Section 9 of IBC, 2016. It is the case of the petitioner that it has supplied Napier grass to the Corporate Debtor vide Invoices produced at ANNEXURE III. The Corporate Debtor has to pay Rs.5,36,000/- @ 18% as on 20.05.2019. There is no dispute about the goods supplied by the Operational Creditor and the Corporate Debtor receiving the same. The Corporate Debtor sent a reply/ affidavit to the Tribunal dated 18.11.2020 accepting the debt and thus requesting relief from the Operational Creditor with regard to the financial crisis faced by the Corporate Debtor.

5. We have gone through the petition filed by the operational creditor, Reply Affidavit filed by the corporate debtor. We have perused the invoices raised by the operational creditor and bank statement annexed at pages 18 and 26 of the petition. We have also perused the reply given by corporate debtor for default of payment and the notices sent by petitioner in Form 3&4. In view of the matter, we are of the opinion that the present petition needs to be admitted under section 9 of the IB Code. The counsel for the operational creditor has proposed the name of Interim Resolution Professional i.e Mr. Pradeep Kumar Sravanam. Form 2 has been filed by him.
6. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -
 - (a) The Bench hereby prohibits 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; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in 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 09.02.2021 till the 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, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be



made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.

- (f) That this Bench hereby appoints Mr. Pradeep Kumar Sravanam, # 6-40, Plot No.101, Suprabhat Township, Venture-2, Near Nalla Malla Reddy Engineering College, Kachavani Singaram, Hyderabad-500 088, having IBBI Registration No. IBBI/ IPA-003/ IP- N-000100/ 2017-18/ 11009, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Accordingly, this Petition is admitted.
- (g) The Applicant/Operational Creditor is directed to deposit an amount of Rs.2 Lakhs with the IRP to meet the initial CIRP expenses including the fee of IRP.
- (h) Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


Veera Brahma Rao Arekapudi
Member Technical


Bhaskara Pantula Mohan
Member Judicial

Pavani