

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

C.P. (I.B) No. 437/9/NCLT/AHM/2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 18.01.2021

Name of the Company:

Care Global Services

V/s

VRX Hospitality Services Pvt Ltd

Section:

9 of the Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order

The order is pronounced in open Court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Dated this the 18th day of January, 2021



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) 437/9/NCLT/AHM/2019

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

M/s. Care Global Services
Through its authorized representative
Mr. Ankit Kirti Joshi,
Having addressed at:
206, Master Mind 1, Royal Palms,
Aarey Milk Colony, Goregaon East,
Mumbai-400065

.....Operational Creditor.

Versus

M/s. VRX Hospitality Services Pvt. Ltd.
(CIN: U55101GJ2001PTC 039175)
Having addressed at:
First Floor, Mauryansh Elanza,
Nr. Parekh's Hospital,
Shaymal Cross Road,
Ahmedabad, Gujarat-380051

.....Corporate Debtor.

Order Reserved on: 12.01.2021
Order Pronounced on: 18.01.2021



**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

Learned Counsel Mr. Amiraj Barot appeared for the
Operational Creditor.

[Per: M. B. GOSAVI, MEMBER (J)]

1. M/s Care Global Services-Operational Creditor appears to be unregistered partnership firm through its authorized signatory Mr. Ankit Kirti Joshi filed this application under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred as to "**IBC, 2016**") against the M/s. VRX Hospitality Services Pvt. Ltd.-Corporate Debtor for initiating Corporate Insolvency Resolution Process (hereinafter referred as to "**CIRP**") of the Corporate Debtor stating that the Corporate Debtor committed default in paying operational debt of Rs. 3,00,000/- (Rupees Three Lakhs Only) in spite of receipt of Demand Notice dated 01.04.2019.
2. The Operational Creditor states that Corporate Debtor was providing services in form of consultancy to set up business and/or supplying BPO. On 22.05.2018 the Corporate Debtor executed the agreement to provide the Operational Creditor services as a consultant to set up the business. As a part of its fees, Corporate Debtor accepted from the Operational Creditor security deposit of Rs.



3,00,000/-. The Corporate Debtor did not render required services to Operational Creditor so Operational Creditor demanded from the Corporate Debtor refund of security deposit. In spite of persuasion, the Corporate Debtor failed to refund the amount so on 01.04.2019 the Operational Creditor delivered the Corporate Debtor Demand Notice under Section 8 of IBC, 2016. In spite of receipt of Demand Notice the Corporate Debtor did not refund the amount nor pointed out any dispute relating to same; hence, this application is filed to initiate the CIRP of the Corporate Debtor.

3. Notice of this application was duly served on the Corporate Debtor by E-mail as well as Registered Post. In spite of receipt of Notice no one appeared on behalf of Corporate Debtor. Hence, on 28.01.2020 this Authority passed order and fixed the matter for final hearing.



4. On 12.01.2021 when the application was taken up for hearing no one appeared for the Corporate Debtor so hearing of this application proceeded ex-parte against the Corporate Debtor.

5. We perused the evidence on record. We heard learned counsel Mr. Amiraj Barot for the Operational Creditor.
6. An agreement dated 22.05.2018 (at Annexure 1B) discloses that the Corporate Debtor received from Operational Creditor a sum of Rs. 3,00,000/- towards security deposit by way of NEFT from its account maintained with Kotak Mahindra Bank, Branch Mumbai-Goregaon, West (Account No. 06432000001732). In spite of execution of above agreement and having received of security deposit from the Operational Creditor, the Corporate Debtor did not render due services. This evidence unchallenged on record against the Corporate Debtor.
7. On 01.04.2014 the Operational Creditor delivered the Corporate Debtor Demand Notice under Section 8 of IBC, 2016. Evidence of delivery of Demand Notice is on record (as Annexure 1E collectively). The Operational Creditor filed on record the affidavit stating that in spite of receipt of Demand Notice, the Corporate Debtor did not pay the debt nor pointed out any dispute relating thereto and thereby complied the provisions of Section 9(3)(b) and 9(3)(c) of IBC, 2016. The Operational Creditor did not suggest name



of any Resolution Professional (hereinafter referred as to "RP") for appointment of Interim Resolution Professional (hereinafter referred as to "IRP") and left the matter at the discretion of this Authority. This application is defect free; hence, we admit the Corporate Debtor in CIRP under Section 9 of IBC, 2016. Accordingly, we pass the following order:

ORDER

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- (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 Securitisation and Reconstruction of Financial 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.*

2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
3. The Operational Creditor has proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoints **Mr. Anish Babubhai Shah** having **Registration No. IBBI/IPA-002/IP-N00017/2016-17/10031,** **e-mail id: anishshacs@gmail.com** to act as an IRP under Section 13(1) (c) of the CODE.



4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



5. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.

6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report.




8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.

8. Accordingly, CP (IB) No. 437/9/NCLT/AHM/2019 is allowed.

9. The matter to be listed on 22.02.2021 for further consideration.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Signed on this, the 18th January, 2021.

Rajeev Sen/Stenographer



Certified to be True Copy of the Original


Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad
20/1/21