

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT (COURT NO.IV)**

**(IB)-182/ND/2018**

M/s. Vistoso ...Applicant

v.

M/s. Walter Johnson India Pvt. Ltd. ...Respondent

**Under Section: Section 9 of IBC.**

**CORAM**

**DR. DEEPTI MUKESH,  
HON'BLE MEMBER (J)**

**Order pronounced on 24.04.2018**

For the Applicant : Mr. Rishabh Kapoor, Adv.  
For the Respondent : None.

**ORDER**

This is an application filed u/s. 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity the Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating of Corporate Insolvency Resolution Process in respect of the Corporate Debtor M/s. Walter Johnson India Private Limited.



2. The applicant claims that it is an operational creditor and the respondent is a corporate debtor as prescribed under the provisions of the Code.
3. The applicant is a partnership firm registered with the Registrar of Firms having its registered office at A-120, Sector-83, Noida, UP-201301 and also having address for correspondence C/o Rishab Kapur, 18, Babur Road, Bengali Market, New Delhi-110001.
4. The operational creditor has filed this application through its partner Mr. Rajiv Surana.
5. The Corporate Debtor, M/s. Walter Johnson India Private Limited (for brevity the company) under the provisions of Companies Act, 1956 having CIN U74899BL1984PTC017358.
6. The master data of the company is annexure at Annexure 'A'. The company's registered office is situated at B-93, Gulmohar Park, New Delhi-DL-110049 IN. It is the case of the applicant that operational creditor had been given the job work for fabric printing by the Company and the invoices were raised for the same job work from the

 period September, 2014 onwards. The said work was completed to the satisfaction of the company and the company made payment of certain invoices raised by the operational creditor till August, 2015. It is further case of the operational creditor that last payment made was of Rs.1 lakh which was credited in the bank account of the operational creditor on 26<sup>th</sup> May, 2016. The operational creditor through various emails, telephonic as well as personal talks requested for the balance payment and the company assured that the payment would be made soon. The details of various pending invoices are annexed at Annexure 'C' and the account statement for the same in the books of operational creditor is at annexure 'D'.

7. It is further claimed by the operational creditor that various email communications from the period October, 2016 to December, 2016 were exchanged. The reply to the emails sent by the company clearly indicates the debt is admitted by the company who requested some time to make payment, due to their financial crisis. The email dated 11<sup>th</sup> November, 2016 clearly admits the claim in

 terms of the statement "We have no intention of causing any problems to you and will pay each and every thing when the situation is improved a little." The operational creditor states that the payment was not coming through from the company and the company having no response, the notice u/s. 8 of the Code was issued by the operational creditor on 7<sup>th</sup> December, 2017, which is annexed at Annexure 'F'. The said notice was received on email of the company as displayed in the master data but as an abundant caution the operational creditor sent aforesaid statutory notice on official email addresses of its directors which have been received by the directors. Hence, the service of notice under Section 8 of IB Code is complete. The operational creditor has filed affidavit to the effect. The company has not replied to the said notice and hence an affidavit to the effect that no dispute has been raised by the company is also filed by the applicant. The operational creditor has also filed affidavit as required for certifying the electronic record u/s. 65B of the Indian Evidence Act.



8. It is the claim of the applicant that as per notice u/s. 8 of the Code the total amount of claim is Rs.30, 36,175.87 inclusive of interest @ 24% per annum till 23<sup>rd</sup> November, 2017 which the company is in default. As per the claim of the operational creditor the default occurred on 26<sup>th</sup> July, 2017 and the application has been filed in February, 2018. Hence the application is filed within time.
9. The registered office of the company is situated at New Delhi, hence this Tribunal has jurisdiction to entertain and try the present application.
10. The applicant states that the present application is filed on 16<sup>th</sup> February, 2018 and it is duly served on its registered office address of the corporate debtor which has been returned as per track record with the remark "returned to shipper". The copy of the application served at the registered email address of the company as well as the email addresses of the directors of the company are received and service affidavit of the application duly served, is also filed by the applicant.



11. It is observed that on the last occasion and today also none appears for the company though the company and its directors are duly served.
12. It is clearly seen from the above that the company has admitted the debit through email and has not raised any dispute after receiving the notice u/s. 8 of the Code. Hence the present application is fit case for admission.
13. In view of the above, we are satisfied that the present application is complete and the operational creditor is entitled to claim its due towards services on job work to the corporate debtor and there has been a default in payment of the operational debt. Therefore, on fulfillment of the requirements of Section 9(5)(i)(a) to (e) of the Code, the present application is admitted.
14. As a sequel to the above discussion, this petition is admitted. The operational creditor has not suggested any name for appointing Interim Resolution Professional and left it to the Tribunal to appoint IRP as per the directors of the Tribunal. Mr.Devnidhi Arya, Registration No.IBBI/IPA-001/IP-P00148/2017-18/10312 email



ID:devaryafca@gmail.com and mobile No. 9818125950 is appointed as an Interim Resolution Professional. Mr. Arya is directed to file a copy of his certificate issued by the IBBI and communication as required under the Rules within two days.

15. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14(1)(a)(b)(c) & (d). Thus, the following prohibitions are imposed:

- “(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 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.”

16. It is further directed that:

- (a) 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;
- (b) The provision of sub-section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

17. The order of moratorium shall have effect from the date of this order till the complete of the corporate insolvency process as per Sub-section (4) of section 14 of the Code.

18. The Interim Resolution Professional shall perform all his functions contemplated, *inter alia*, by Sections 15,17,18,19,20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the ‘Code’, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the

Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

19. The office is directed to communicate a copy of the order to the Financial Creditor and the Corporate Debtor at the earliest possible but not later than seven days from today.

*S/q*

**\*KCS\***

**(DR. DEEPTI MUKESH)  
MEMBER (JUDICIAL)**