

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 888/I&BP/2019

Under section 8 &9 of the IBC, 2016

In the matter of

Amrik Singh & Sons Crane Services Private
Limited

Chacha House, Opposite Bezzola Complex,
Near Suman Nagar, ST Road, Chembur,
Mumbai – 400 071

.... Petitioner

v/s.

Capacite Structures Limited

219-288, Shrikant Chambers, B-Wing, 2nd
Floor, S. T. Road, Chembur, Mumbai – 400
071

.... Corporate Debtor

Order delivered on: 29.08.2019

Coram:

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

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

For the Petitioner : Mr. Shantanu Deshgawen, Advocate.

For the Corporate Debtor : Mr. Vishal Phal i/b Sunita Sonawane, Advocate.

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER



1. This company Petition is filed by Amrik Singh & Sons Crane Services Private Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Capacite Structures Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default on 13.06.2017 in making payment to the extent of Rs. 21,91,982/-, 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 the business of providing equipment rental such as cranes, loaders, trailers and contract engagement services.

3. During 2016-2017 the Corporate Debtor had approached the Petitioner and entered into a contract with a Petitioner via work order for providing hiring services of cranes. The Petitioner had duly supplied all the equipment's and raised tax invoices on timely basis against the Corporate Debtor to the extent of Rs. 21,91,982/-. The Corporate Debtor duly acknowledge the said invoices.
4. The Counsel for the Petitioner submits that, the Corporate Debtor accepted the goods supplied by the Petitioner and also invoices issued by the Petitioner.
5. After repeated requests and reminders were issued to the Corporate Debtor, on account of non-payment of the dues, the Petitioner on 05.09.2018 issued Demand Notice demanding a sum of Rs. 21,91,982/- under Section 8 of the Code.
6. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor. (pg. 9)
7. On 29.08.2019 during the hearing of this matter, the Ld. Counsel appearing on behalf of the Corporate Debtor admits the liability and default and hence there is no objection for admission of the Petition by the Corporate Debtor.
8. 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 29.08.2019 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. Rajender Kumar Girdhar, residing at Oshiwara, Mhada Complex, Building No. 5 Aster Coop. Housing Society, Flat No. 205 2nd Floor, New Link Road, Oshiwara Andheri (w), Mumbai, Maharashtra ,400053; having Registration No. IBBI/IPA-003/IP-N00048/2017-18/10396 as Interim Resolution Professional to carry the functions as mentioned under the Code.
9. Accordingly, this Petition is admitted.
10. 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)

Certified True Copy
Copy Issued
On 11/10/19

B. A. Parkes

Secretary
National Company Law Tribunal Mumbai Bench
Government of India