

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Application No. IB-988/ND/2018

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF

NAVEEN MALHOTRA

...Applicant/ Operational Creditor

VERSUS

VISHAL GLOBAL LIMITED

...Respondent/ Corporate Debtor

Judgment Pronounced on:27.09.2018

CORAM:

DR. DEEPTI MUKESH

MEMBER (Judicial)

For the Applicant: Mr. Bharat Gupta, Advocate

For the Respondent: ---

MEMO OF PARTIES

NAVEEN MALHOTRA

Resident of: 470, Lawyers Chambers

Patiala House Courts

New Delhi-110001

...Applicant/Operational Creditor

VERSUS

VISHAL GLOBAL LIMITED

Registered office at: 52/124,

Pocket 52, EPDP Colony, Chitranjan Park

Delhi-110019

...Respondent/ Corporate Debtor

JUDGEMENT

1. The present application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Mr. Naveen Malhotra, (for brevity 'Applicant') with a prayer to initiate the Corporate

Insolvency process against Vishal Global Limited (for brevity 'Corporate Debtor').

2. The applicant is an advocate, who had in turn authorized Mr. Bharat Gupta and Mr. Varun Tyagi, Advocates of the Legist Auxiliary Advocates & Legal Consultants, to initiate proceedings under I & B Code.
3. The Applicant is having office at 470, Lawyers Chambers, Patiala House Courts, New Delhi-110001.
4. The corporate debtor is a company limited by shares incorporated under the provisions of the Companies Act, 1956 on 31.12.1985 having CIN U51909DL1985PLC022920 as per Master Data.
5. The Authorised Share Capital of the Corporate Debtor is Rs. 5,00,00,000/- and Paid Up Share Capital is Rs. 1,08,40,200/- as per Master Data of the company at Annexure –I.
6. The corporate debtor is having its registered office at 52/124, Pocket 52, EPDP Colony, Chitranjan Park, Delhi.

7. The Applicant has stated that various professional services were provided to the corporate debtor and in pursuant of that he has raised bill for Rs. 1,25,000/- vide dated 28.04.2017 with respect to said legal services rendered to the corporate debtor.
8. The applicant has further stated that despite several telephonic reminders, the payments are not made and there is no dispute regarding the due amount which was admitted by the director, Mr. Ujjwal Sharma vide affidavit dated 03.09.2018 who had been authorized vide resolution of Board of Directors dated 24.08.2018.
9. The corporate debtor has admitted about availing of the services from the applicant and also requested for time stating that due to financial difficulties, payment could not be made.
10. The corporate debtor has further stated that the bank has already sold the property related to the company to realize their claims and for balance, the matter is already pending before the Debt Recovery Tribunal, New Delhi.

11. The Applicant issued a Demand Notice under section 8 of the Insolvency and Bankruptcy Code, 2016 dated 13.07.2018 (Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016).
12. The applicant further states that neither the payment nor any notice of dispute was raised by the corporate debtor and hence present application is filed under section 9 of IBC, 2016 which is duly served on corporate debtor.
13. The Applicant has filed an affidavit affirming that in respect of the amount claimed or any part thereof, the Applicant has not received nor had any person, on its behalf had received in any manner the amount due to them under section 9(3)(b) supported by the affidavit dated 02.08.2018 and 9(3)(c) of the IBC, 2016 supported by the copy of bank account of UCO Bank for the period 23.03.2018 to 29.06.2018.
14. The applicant further states that in spite of several opportunities given none appeared on behalf of the

corporate debtor nor any reply is filed and the matter was listed to be heard exparte on 18.09.2018.

15. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
16. The amount of default exceeds Rs. 1,00,000/- as per the requirement under section 4 of the Code, 2016, and application is within the purview of section 9 of the IBC, 2016.
17. The default in payment of operational debt became due and payable from the date 11.04.2017 raised by the Applicant and hence the debt is not time barred and application is within limitation period.
18. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, which remain uncontroverted by the Corporate Debtor, establishing the default in payment of the operational debt beyond doubt. In the light of above

facts and records the present application is admitted before bench.

19. The Applicant has named the Interim Resolution Professional (IRP), to be appointed by the order of Tribunal, as Mr. Ashish Singh having registration number IBBI/IPA-002/IP-N00416/2017-18/11230 and E-Mail ID ashishsinghcs@gmail.com, duly registered with Insolvency and Bankruptcy Board of India, as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Corporate Debtor and specific consent is filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 in relation to specifically the Corporate Debtor and the Applicant herein and make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.

20. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 and moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor prohibiting all of the following:

- 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.

However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

(2) 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.

*(3) The provisions of sub-section (1) shall not apply to—
a. such transaction as may be notified by the Central Government in consultation with any financial sector regulator.*

b. a surety in contract of guarantee to a Corporate Debtor.

21. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process, provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under

sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

22. In terms of above order, the Application stands admitted in terms of Section 9(5) of IBC, 2016. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further the IRP above named be also furnished with copy of this order forthwith by the Registry.

Sd/-

(DR. DEEPTI MUKESH)

MEMBER (JUDICIAL)