

Dated:- 20.09.2018

IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH

C.P. No. IB-03/JPR/2018

UNDER SECTION 9 of IBC, 2016

CORAM: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)

In the matter of:

M/s UVA Engineers Private Limited

A company incorporated under the Companies Act, 2013 and having its registered office at: 211, RG Complex-I, Prashant Vihar, Sector-14, Rohni, New Delhi-110085.

.....Applicant/Petitioner

VERSUS

M/s Maha Associated Hotels Private Limited

K-47, Janpath, Kishan Nagar,
Shyam Nagar, Jaipur,
Rajasthan-302019.

.....Respondent

FOR PETITIONER (S)

: MANOHAR MALIK, ADV.

FOR RESPONDENT (S)

: NONE APPEARED.

ORDER

An application filed by UVA Engineers Private Limited in the capacity of an Operational Creditor against M/s Maha Associated Hotels Private Limited as Corporate Debtor arising out of the agreement entered into between the Operational Creditor and the Corporate Debtor dated 21.09.2014 and transactions arising thereunder in relation to plumbing works to the value of Rs. 1.48 crores and in relation to firefighting works by a separate contract to the extent of Rs. 1,08,6900/- and as per the contract/agreement the works were required to be completed by 31.05.2015 and the default liability period to be enforced up to 31.05.2016 in relation to the works awarded to the Operational Creditor by the Corporate Debtor. Both the above projects were awarded to the Operational Creditor in relation to hotel project undertaken by the Corporate Debtor. The above said works, namely, the plumbing works as well as firefighting works according to the Operational Creditor was duly performed and that the same was also acknowledged as evident by the endorsement made by the Corporate Debtor, in the tax invoices raised from time to time.

However, despite the completion of works by the Operational Creditor their remained an outstanding amount of Rs. 51,84,902/- since the year 2015 onwards and in spite of repeated e-mail reminders to the Corporate Debtor to pay

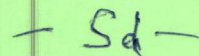
the amount due, there was no response on the part of the Corporate Debtor and that ultimately upon Insolvency and Bankruptcy Code, 2016 (IBC, 2016) coming into force, a notice under Section 8 of IBC, 2016 was issued to the Corporate Debtor on 08.05.2018 and despite service of the said notice upon the Corporate Debtor at its registered office as evidenced from the tracking report filed in the typed set of documents along with the application the Corporate Debtor did not respond either by making the payment of the sum in default being the sum claimed in this application of Rs. 51,84,902/- nor the Corporate Debtor sent any notice of dispute in relation to the notice of demand to which effect an affidavit under Section 9(3)(b) of IBC, 2016 has been duly filed.

In view of lack of response as stated above, learned counsel for the Operational Creditor represents that this application under the provisions of IBC, 2016 for the initiation of Corporate Insolvency Resolution Process as against the Corporate Debtor has been filed. It is stated by the learned counsel for Operational Creditor that an advance copy of the application was duly dispatched to the Corporate Debtor and that despite service of the same upon the Corporate Debtor, the Corporate Debtor has not appeared before this Tribunal and despite a direction on 02.08.2018 as evident from the records subsequent to transfer of this matter from NCLT, New Delhi to NCLT Jaipur since there has been no appearance on the part of the Corporate Debtor and in the circumstances a notice was directed

to the Corporate Debtor to be issued to its registered office by the petitioner, in relation to the date of hearing fixed on 30.08.2018.

In the meanwhile, the registry of this Tribunal has also issued communication to the Corporate Debtor through speed post intimating about the next date of hearing i.e. 30.08.2018 and despite the communication by counsel for the petitioner as well as through registry the Corporate Debtor has not chosen to put in its appearance before this Tribunal, this Tribunal was constrained to proceed with the matter in the absence of the Corporate Debtor vide order dated 30.08.2018 and the matter was fixed for enquiry on 20.09.2018 i.e. today. Learned counsel for the Operational Creditor made his oral submissions and took this Tribunal through the documents as referred to in paragraphs supra in support of the claim. Since the claim of Rs. 51,84,902/- has been established by the Operational Creditor as against the Corporate Debtor and in terms of Section 9(5)(1) of IBC, 2016, this petition stands admitted. Further as a consequence of admission moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will follow during CIR process of the Corporate Debtor Mr. Brij Kishore Sharma is appointed as IRP having Registration No. IBBI/IPA-002/IP-AN00036/2016-17/10075 the Interim Resolution Professional (IRP) to carry out the Corporate Insolvency Resolution Process as envisaged under the provisions of IBC, 2016, in relation to the Corporate Debtor.

The said IRP shall act strictly in compliance with the provisions of IBC, 2016. With a view to defray his expenses to be incurred and fees on account, the Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) to the account of the IRP. The IRP shall duly file the status report apprising this Tribunal about the progress of CIR process unfolded in relation to the Corporate Debtor. In terms of Sections 17 and 19 of IBC, 2016 all the personnel of the Corporate Debtor including its promoters and Board of Directors whose powers shall stand suspended will extend all co-operation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP. In terms of Section 9 of IBC, 2016, a copy of this order shall be duly communicated to the Operational Creditor, Corporate Debtor as well as the Interim Resolution Professional appointed by this Tribunal to carry out the CIR process at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records. In the circumstances this application stands admitted.



(R. Varadharajan)
Member (Judicial)