

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No.2760/I&BP/2018

Under section 8 & 9 of the IBC, 2016

In the matter of

Ada Cellworks Wireless Engineering
Private Limited, Global Vision Electronic,
Sadan II, MIDC TTC Industrial Area
Mahape,
Navi Mumbai-400710

....Petitioner

V/s

Global Rural Netco Limited,
Global Vision, Electronic Sadan II, MIDC,
TTC Industrial Area, Mahape,
Navi Mumbai – 400 710

....Respondent

Order delivered on: 18.02.2019

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner: Ms. Alpana Ghone, Advocate i/b Mr. Babasaheb Yewale,
Advocate.

For the Respondent: None Present.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by Ada Cellworks Wireless Engineering Private Limited., (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Global Rural Netco Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 31.07.2018 in making payment to the extent of Rs.6,70,00,000/- by invoking the provisions of Sections 8 & 9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petitioner submits that, they entered into an oral agreement with the Corporate Debtor for supply of optic fiber cables, accordingly Petitioner issued purchase order for the supply of optic fiber cables. The Corporate Debtor sought advance from the Petitioner for the procuring the materials.

The purchase order was issued by the Petitioner on 06.03.2012 to the Corporate Debtor for Rs. 16.30 crores and the Petitioner paid an advance of Rs. 12 crores on 31.03.2012. Subsequently, the purchase order was modified for Rs. 9.10 crores instead of Rs. 16.30 crores and the Corporate Debtor refunded a sum of Rs. 5.30 crores on 24.11.2012 to the Petitioner due to the reduction in the value of the order and consequently the total advance paid by the Petitioner to the Corporate Debtor stands at Rs. 6.70 crores. Due to bad economic conditions the whole purchase order was cancelled by the Petitioner. When the Petitioner asked for the refund of the Rs. 6.70 crores lying as advance to the Corporate Debtor, the Corporate Debtor replied saying that the amount has been invested to procure optical fiber cables and hence they requested 36 months to repay the advance money to the Petitioner. The Petitioner submits that, despite giving ample time to pay back the advance, the Corporate Debtor failed to repay the advance taken. Then the Petitioner issued Demand Notice on 21.05.2018 to the Corporate Debtor. The Corporate Debtor neither replied to the demand notice nor made payment nor raised any disputes and the Petitioner filed Affidavit u/s 9(3)(b) of the Code to that effect.

3. The Petitioner has enclosed the balance confirmation issued by the Corporate Debtor for the years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 on 17.04.2014, 23.04.2015, 14.04.2016, 20.04.2017 and 18.04.2018 respectively. All the above confirmations shows that Corporate Debtor owes a sum of Rs. 6.70 crores to the Petitioner.

4. The Petitioner has also enclosed a letters dated 17.10.2017 and 26.03.2018 wherein the Corporate Debtor stated that they are not in a position to clear the outstanding dues of the Petitioner and they are in the process of arranging funds.

5. The above facts clearly reveals that the Corporate Debtor acknowledged the liability of Rs. 6.70 crores but defaulted in making the payment to the Petitioner.

6. The counsel for the Petitioner submits that, the Petition was served to the Corporate Debtor and file proof of service to that effect. Subsequently the Petitioner informed the date of hearing to the Corporate Debtor and filed proof of service. However, the Corporate Debtor was absent.

7. This Bench having been satisfied with the Petition filed by the Operational Creditor which is in compliance of provisions of section 9 of the Insolvency and Bankruptcy Code admits this Petition 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 judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; 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 18.02.2019 till the completion of the corporate insolvency resolution process 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 corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Ms. Dipti Mehta, residing at 201-206, Shiv Smriti, 2nd Floor, 49A, Dr. Besant Road, Above Corporation Bank, Worli, Mumbai - 400018, email id - dipti@mehta.com having Registration No. IBBI/IPA-002/IP-N00134/2017-2018/10350 as an interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

8. Accordingly, this Petition is admitted.
9. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

V. Nallasenapathy
Member (T)

SD/-

Bhaskara Pantula Mohan
Member (J)