

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

C.P. No. 2986/I&BP/2018

Under section 8 &9 of the IBC, 2016

In the matter of

Rampra Steel Industries Pvt. Ltd.
A-11, Shree Ram Industrial Estate, Near
Wadala Telephone Exchange, Wadala
West, Mumbai - 400037.

....Petitioner

v/s.

Sri Ganesh Microsystem Pvt. Ltd.
Survey No. 13, Anandi Building, Opp.
Akashwani, Ajinkya Colony, Hadapsar, Pune -
411028.

....Respondent

Order delivered on: 19.02.2019

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

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Girish Kedia, Ms. Shivangi Kedia, Advocates.

For the Respondent: Mr. Santaram A. Tarale, Advocate.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by Rampra Steel Industries Pvt. Ltd. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Sri Ganesh Microsystem Pvt. Ltd. (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 19.03.2018 in making payment to the extent of Rs. 9,02,601/- including interest @ 21% p.a. on the principal amount of Rs. 6,45,485/- from the date of decree (26.06.2018) till realization, 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 have supplied material to the Corporate Debtor and raised 6 invoices during the year 2016 to the extent of Rs. 7,62,502/- and received payment of Rs. 1,18,017/- only, thereby there is a balance of Rs. 6,45,485/- pending realization from the Corporate Debtor. The Petitioner filed summary suit no. 786 of 2017 on the file of the Bombay

City Civil Court and a decree was passed on 19.03.2018 against the Corporate Debtor for Rs. 7,78,346/- with interest @ 21% p.a. on the principal of Rs. 6,45,485/- from the date of filing the suit till the realization of entire decretal amount.

3. The Petitioner issued Demand Notice to the Corporate Debtor on 21.04.2018 claiming a sum of Rs. 7,78,346/- with further interest @ 21% p.a. on the principal of Rs. 6,45,485/- from the date of filing the suit till the realization of entire decretal amount. However, the Corporate Debtor neither responded to the notice nor raised any dispute nor paid the amount demanded. The Petitioner filed affidavit u/s 9(3)(b) stating that no dispute was raised by the Corporate Debtor.
4. On 23.10.2018 Mr. Santaram A. Tarale, Advocate, had undertaken to file Vakalatnama and the case was listed on 28.11.2018. However, the Ld. Counsel neither filed Valakatnama nor appeared on 28.11.2018. Subsequently, for the hearing on 11.12.2018 the said Counsel appeared and sought time to file reply and it was made clear to the Counsel that no further time will be given. In the next hearing on 17.12.2018 the Ld. Counsel for the Corporate Debtor again sought time for filing reply on the ground that his client was hospitalized. However, this Bench refused to give any further time, heard the Petitioner and reserved the matter for orders.
5. This Bench on hearing the arguments for the Counsel for the Petitioner and after perusal of the documents filed with the Petition is of the considered view that the Petitioner has proved the debt and default and the Petition deserves to be admitted.
6. 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 and 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 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 19.02.2019 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 Mr. Rajendra Kumar Khandelwal, reg. off. At 302, Taramahal, Plot No. 756, 5th Road, Khar (W), Mumbai; having Registration No. IBBI/IPA-001/IP-P01140/2018-2019/11867 as an interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.

8. The Registry is hereby directed to communicate this order to both the parties and also to the IRP immediately.

SD/-
V. NALLASENAPATHY
Member (Technical)

SD/-
BHASKARA PANTULA MOHAN
Member (Judicial)