

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

C.P. No.2913/I&BP/2018

Under section 8 & 9 of the IBC, 2016

In the matter of

Mr. Nitin Purushottam Tupkar,
Subrata Maity, Chartered Accountant,
G 106, Ground Floor, Nano Wing, Haware
Fantasia Business Park, Opp Vashi
Railway Station, Vashi, Navi Mumbai,
400705

....Petitioner

v/s.

Vastu Land Realtors,
Plot No. 245, Kashi Bhandar, Nandanwan
Layout, Nandanwan Nagpur, MH 440009

....Respondent

Order delivered on: 27.02.2019

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

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : Mrs. Kenny Thakkar, Advocate.

For the Respondent: None Present.

Per: Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This Company Petition is filed by Nitin Purushottam Tupkar, (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Vastu Land Realtors Pvt. Ltd. (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 18.07.2017 & 25.07.2017 in making payment to the extent of Rs. 4,99,200/- 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 brief facts of the case are that the Corporate Debtor is engaged in the business of land development. The Corporate Debtor approached the Petitioner for providing services like Demarcation, Excavation of Layout and Construction of WBM Road and appointed the Petitioner as contractor and engineer. Accordingly, the Petitioner has rendered his services and raised the invoices. The Petitioner has sent various letter and reminders to the Corporate Debtor for repayment of outstanding amount and in reply the respondent vide its letter

dated 08.11.2017 assured the Petitioner that they will clear all the outstanding dues and requested to wait upto 30.11.2017, but the same was not complied by the Corporate Debtor.

3. Since the Corporate Debtor failed to repay the outstanding dues, the Petitioner issued Demand Notice in Form-3 under Section 8 of the Code on 29.06.2018 demanding for repayment of Rs.4,99,200/-. However, the Corporate Debtor failed to repay the aforesaid dues despite receiving of the said Demand Notice, the Corporate Debtor neither replied to the same nor repay the outstanding amount.

4. The Petitioner enclosed the statement of account period from 01.04.2017 to 27.07.2018 issued by Union Bank of India to say that no payment has been received from the Corporate Debtor in respect of the debt due.

5. The Petitioner submits that the Petition was served on the Corporate Debtor on 08.12.2018 and filed proof of service to that effect. The Petition was listed for hearing on 18.12.2018 & 10.01.2019 wherein the Corporate Debtor was absent and the Petitioner was directed to intimate the next date of hearing, the Corporate Debtor complied with the direction of this Bench and filed proof of service. Despite sufficient service of Petition as well as intimation of date of hearing, the Corporate Debtor neither appeared nor filed reply in rebuttal. Though the Petitioner had not filed the affidavits under Section 9(3)(b) nor Section 9(3)(c), in view of the admission of Debt, the same is not necessary.

6. This Bench has gone into the details provided in the Form 5 and connected materials and after hearing the Petitioner is of the considered view that there is debt and default.

7. One Srigini Rajat Naidu, Block No 11 And 12, 1st Floor, Mount Annexe, Mount Road, Nagpur, Maharashtra ,440001 having Registration No. IBBI/IPA-003/IP-P00137/2017-2018/11513 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

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 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 27.02.2019 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 Srigini Rajat Naidu, Block No 11 And 12, 1st Floor, Mount Annexe, Mount Road, Nagpur, Maharashtra ,440001 having Registration No. IBBI/IPA-003/IP-P00137/2017-2018/11513 as interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties.

Sd/-
V. NALLASENAPATHY
Member (Technical)
/NP/

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)