

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

C.P. No.1569/I&BP/2018

Under section 8 & 9 of the IBC, 2016

In the matter of

M/s Sherif Travel and Cargo Service Pvt.
Ltd, 306 B Wing, Jayant Apartments, Near
Sahar Air Cargo Complex, Andheri East,
Mumbai-400099

....Petitioner

v/s.

M/s Real Fast Cargo Express Pvt. Ltd,
Real Fast House, Ground Floor, Church Pakhadi,
Road No.1, Sahar Village, Andheri (East)
Mumbai-400099

....Respondent

Order delivered on: 07.03.2019

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

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Sukrut Mhatre, Advocate.

For the Respondent: None Present.

Per: Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This Company Petition is filed by M/s Sherif Travel and Cargo Services (Private) Limited, (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against M/s Real Fast Cargo Express Pvt. Ltd. (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 20.05.2015 in making payment to the extent of Rs. 42,92,690/- inclusive of interest @ 18% p.a. 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 Petitioner is engaged in the business of IATA accredited cargo agent and being the agent of Jet airways, the Petitioner assigned the job/duties of forwarding domestic Air Cargo to various clients in various destinations from time to time to the Corporate Debtor and to that effect the Petitioner has raised various bills/invoices from time to time. The Petitioner has sent various letter and reminders to the Corporate Debtor for repayment of outstanding amount and in reply the respondent vide its email dated 08.09.2017 disputed the outstanding dues.

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 22.11.2017 demanding for repayment of Rs.41,20,160/-. 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 to say that the last payment was received from the Corporate Debtor on 20.05.2015 for a sum of Rs. 18,827/-.
5. The Petitioner submits that the Petition was served on the Corporate Debtor and filed proof of service to that effect. The Petition was listed for hearing 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. Therefore, there is no rebuttal to submissions made by the Petitioner and it must be presumed that the Petitioner has no defence to the above Petition.
6. The Petitioner has enclosed the following documents with the petition which are as below:-
 - a. Board Resolution dated 10.03.2011 (Annexure A/1)
 - b. Copies of invoices from 15.09.2013 to 12.11.2014 (Annexure A/2).
 - c. Statement of account (Annexure A/3)
 - d. Email Communication and Messages about acknowledgement of Debt (Annexure A/4 & A/5)
 - e. Demand Notice dated 22.11.2017 (Annexure A/6)
7. 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.
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 07.03.2019 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. Sharad Saboo, 91/95, Saraswati Banglow, RDP 1 Link Road, Gaorai, Borivali-W, Mumbai-400091 having Registration No. IBBI/IPA-001/IP-P01442/2018-2019/12166, email-id saboosharad@gmail.com 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 as well as IRP immediately.

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

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)