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**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL**  
**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 04.07.2019 AT 10.30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.229/9/HDB/2019
NAME OF THE COMPANY	Varnika Industries Pvt Ltd
NAME OF THE PETITIONER(S)	Servel Electronics Pvt Ltd
NAME OF THE RESPONDENT(S)	Varnika Industries Pvt Ltd
UNDER SECTION	9 of IBC

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Ravi Kumar	Adv Gulshan o.c	9963067404	

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

Orders passed vide separate orders.

CP admitted.

  
Member(Judl)

Pavani

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 229/9/HDB/2019  
U/s 9 of IBC, 2016  
R/w Rule 6 of I & B (AAA) Rules, 2016

**In the matter of Varnika Industries Private Limited**

M/s. Serwel Electronics Private Limited,  
Represented by its Director,  
Subramanyam Sarma Garimella,  
R/o: 6-3-853/1, 6-3-854 & 6-3- 854A,  
Meridian Plaza, beside Lal Bungalow,  
Ameerpet, Hyderabad- 500 016.

*...Petitioner/ Operational Creditor*

**VERSUS**

M/s. Varnika Industries Private Limited  
Represented by its Director:  
Mr. Naga Mohan Kalapala,  
R/o: Plot No. A- 28/1/3&4, Sy.No. 242  
Nacharam, Hyderabad- 500 016.

*...Respondent/ Corporate Debtor*

**Date of order: 04.07.2019**

**Coram:**

Hon'ble Shri Ratakonda Murali, Member (Judicial)

**Parties / counsels present:**

For the Petitioner : Shri V. Ravi Kumar, Advocate.

For the Respondent: Remained absent.

**Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)**



**Heard on:** 23.04.2019, 16.05.2019, 18.06.2019, 27.06.2019  
and 04.07.2019.

## **ORDER**

1. The present Petition is filed by M/s. Serwel Electronics Private Limited against M/s Varnika Industries Private Limited. The Corporate Debtor had defaulted in paying Rs. 69,46,928/- (Rupees Sixty-Nine Lakhs Forty-Six Thousand Nine Hundred and Twenty-Eight only). The debt arose due to failure of payment towards invoices raised. Hence this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.
  
2. The brief averments made in the Petition are that:
  - a. It is stated that the Corporate Debtor gave an order for a supply of Copper Strip, CRGO Core, Clamps, CRGO Lamination, Shaft, Variacs of various sizes, Frames of various sizes and other related material for manufacturing of transformers and stabilizers by the Operational Creditor vide purchase orders dated 15.02.2018, 05.03.2018 and 09.03.2018.
  
  - b. The Operational Creditor states that it had provided invoices dated 23/02/2018, 27/02/2018, 06/03/2018, 07/03/2018, 09/03/2018, 10/03/2019, 12/03/2019, 14/03/2018, 15/03/2018, 21/03/2018, 24/03/2018, 28/03/2018, 30/03/2018, 31/03/2018 and 04/04/2018.

- c. The Corporate Debtor has made no payments and has failed to complete the payments towards the invoices.
  - d. It is stated that the Operational Creditor on several occasions had approached directly, over phone and personal visit to Corporate Debtor's Office and requested to clear the dues but the Corporate Debtor ignored the promise and refused to respond to the calls.
  - e. The Petitioner has enclosed Form 3 - Demand Notice on page no's. 5-7, proof of receipt of Demand Notice Form- 3 on page no.8, workings for computation of default amounts on page no.14, Board Resolution for Authorization on page no. 15, acceptance from Insolvency Resolution Professional on page no's 17-18 and Ledger of Corporate Debtor in books of Operational Creditor and copies of the Invoices cum delivery challans.
3. I have heard the counsel for Operational Creditor. This Petition is filed by operational creditor under section 9 of I&B Code. Operational creditor filed Form-5 and furnished the information with regard to the operational debt which is committed default by corporate debtor.
  4. The operational creditor is to establish that the application made under subsection (2) of Section 9 is complete and that there is no repayment and that the invoices or notices for payment to corporate debtor were delivered by operational creditor and that no notice of dispute has been received by operational creditor. Further operational creditor is to establish that there are no disciplinary proceedings pending against proposed IRP.
  5. The case of Operational Creditor is that the Corporate Debtor failed to pay an amount of Rs. 69,46,928/- (Rupees

Sixty-Nine Lakhs Forty-Six Thousand Nine Hundred and Twenty-Eight only). The debt arose due to failure of payment towards invoices raised. The date of default is 30.03.2018. The Petition is supported by attaching Annexure to the main Petition, which contained demand notice in Form No.3 as prescribed by the IBC Code, 2016, proof of receipt of Demand Notice Form-3, ledger of Corporate Debtor in books of Operational Creditor and copies of the invoices cum delivery challans.

6. The notice was served on the corporate debtor. Postal track record is filed through Memo. Learned counsel contended that corporate debtor has not replied and failed to defend. The claim is submitted within period of time prescribed under Limitation Act, 1963. Thus, the claim is within limitation. There is no representation or reply by the Corporate Debtor. The Corporate debtor was served with notice before admission. However, the corporate debtor was treated as absent and it did not contest the claim.
7. The Operational Creditor proposes the name of Sri. Arun Kumar Malani, as Interim Resolution Professional. The proposed IRP has given written consent in Form 2 along with copy of certificate of registration. He has also certified there are no disciplinary proceedings pending against him either with the Board or ICSI. He also enclosed his certificate of registration.
8. The Operational creditor is able to establish through documents that corporate debtor committed default of operational debt. The application is complete and is liable to be admitted.
9. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the

purposes referred to in Section 14 of the Code, with following directions: -

- a. The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in 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 4<sup>th</sup> July, 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, whichever is earlier.

- e. That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 15 (1) and (2) of Insolvency and Bankruptcy Code, 2016 and on www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board of India, circulated vide IIBI/IP/PUBLIC ANN/221 dated 01.02.2017) and email to public.ann@ibbi.gov.in, in addition to other accepted modes of publication immediately and call for submission of claims as per Section 15 of the IBC read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Company is also directed to publish the same in their Official website.
- f. That this Bench hereby appoint Sri. Arun Kumar Malani registration number IBBI/02/IP/N00649/2018-2019/11990, having registered office at 6-1-68/3/33, Dream Valley Shivarampally, Pillar No. 306, Rajendra Nagar, RR District, Hyderabad, 500 052, Telangana as Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.

  
(RATAKONDA MURALI)  
MEMBER (JUDICIAL)