

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 2879/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

System Tech

WZ-249A, Sant Garh, Main Outer Ring Road,
New Delhi – 110 018

.... Petitioner

v/s

Wadhawan Global Hotels & Resorts Private
Limited

4th Floor, HDIL Towers, Anant Kanekar
Marg, Bandra (east), Mumbai – 400 051

.... Corporate Debtor

Order delivered on: 11.11.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Amit Tungare, Advocate.

For the Corporate Debtor: None Present.

Per: V. Nallasenapathy, Member (T)

ORDER

1. This company Petition is filed by System Tech (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Wadhawan Global Hotels & Resorts Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 26.06.2018 in making payment of Rs. 57,07,388/-, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that during 02.04.2015 to 11.07.2017, the Petitioner received several work orders from the Corporate Debtor for providing interior work and other ancillary services at the project site of the Corporate Debtor and after rendering services the Petitioner raised invoices amounting to Rs. 82,07,388/-. The invoices were attached to the petition.

3. On 12.10.2018 and 26.10.2018, the Petitioner requested the Corporate Debtor to release outstanding payment. Thereafter, on 25.04.2019, the Petitioner

issued demand notice under Section 8 of the Code demanding a sum of Rs. 82,07,388/-. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

4. The Petitioner submits that subsequent to the issue of demand notice, 14 post-dated cheques amounting to Rs. 25,00,000/- were handed over by the Corporate Debtor to the Petitioner towards part-payment of its outstanding dues, which were all honored and thus a sum of Rs. 57,07,388/- is due from the Corporate Debtor.

5. The counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. Subsequently, the counsel for the Petitioner intimated the date of hearing to the Corporate Debtor but there was no representation from the Corporate Debtor's side. On directions of this Bench the Petitioner served the amended Form 5 through email but there was no representation from the side of the Corporate Debtor.

6. On hearing the submissions of the counsel for the Petitioner and on going through the Form 5 and the documents attached thereto, this Bench is of the view that debt and default are established by the Petitioner, hence the Petition deserves admission.

7. One Mr. Nitin Jain, office at E-337, Grater Kailash – I, New Delhi 110 048; having Registration No. IBBI/IPA-001/IP-P01562/2019-20/12462 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

8. This Bench having been satisfied with the petition filed by the Petitioner which is in compliance of provisions of Section 8 & 9 of the Insolvency & 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 judgement, decree or other in any court of law; 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 11.11.2019 till the completion of the CIRP 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 CIRP shall be made immediately as specified under Section 13 of the Code.
- (f) that this Bench hereby appoints Mr. Nitin Jain, office at E-337, Grater Kailash – I, New Delhi 110 048; having Registration No. IBBI/IPA-001/IP-P01562/2019-20/12462; as Interim Resolution Professional to carry the functions as mentioned under the Code.

9. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-

V. Nallasenapathy
Member (Technical)

SD/-

Suchitra Kanuparthi
Member (Judicial)