

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT NO. V**

**CP No. 1117/(IB)/MB/2019**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

*In the matter of*

**Offshore Hookup and Construction Services (I)  
Private Limited**

Having registered office at 303-305, Basant Vihar Commercial Complex Premises Co-Op Society, Dr. C. G. Road, Chembur, Mumbai- 400074.

... Petitioner/Operational Creditor

V/s

**Cosima Marine Private Limited**

Having registered office at Nehal, Dr. Charat Singh Colony, Andheri (East), Mumbai-400093.

... Respondent/Corporate Debtor

**Order Delivered on: 20.12.2022**

**Coram:**

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

***Appearances (via Video Conferencing):***

For the Petitioner : Mr. Sagar Parab, Advocate.

For the Corporate Debtor : None.

*Per: Kuldip Kumar Kareer, Member (Judicial)*

**ORDER**

1. This Company Petition is filed by **Offshore Hookup and Construction Services (I) Private Limited** (hereinafter called "**Petitioner**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against **Cosima Marine Private Limited** (hereinafter called "**Corporate Debtor**") alleging that the Corporate Debtor committed default on 31.05.2013 to the extent of Rs. 5,32,50,300/- to the Petitioner. This Petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called "**IBC**") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that the Petitioner is in the business of Chartering and/or giving on rent various equipment's for dredging purpose since 1987. The Corporate Debtor is into dredging project in India since 2012. The Petitioner had chartered an equipment being JuLong Cutter Suction Dredger JLCSD-450 and its specifications for the period of Six years to the Corporate Debtor by entering into the Charter Party Agreement dated 22.11.2012 executed by and between the parties.
3. It is submitted that the Corporate Debtor has not made any payments as per the Agreement and had admitted its liability through its director Mr. Pradeep Singh Hooghan vide email dated 27.06.2018 (Annexure C). The relevant portion of the email is as follows:

*"Dear Abhishek,  
Good day to you,  
As discussed moments ago, handing over of the dredger at this stage would almost certainly lead to my bankruptcy.  
All we need is upto the 20<sup>th</sup> of July.  
My wife Parvin when pleaded by saying will not be able to give interest, she meant to say Rent of almost 7 Cr. as we will not have no source of income in hand to settle such a large amount.  
Hence the request to please consider it till July 20<sup>th</sup> Please.*

*We are still hopeful of arranging about 25L in a day or two.  
Requesting you once again to kindly re-consider and oblige us for  
ever,  
Warm rgd  
Pradeep”*

4. Pursuant to above the Petitioner had issued a Demand Notice in Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, dated 13.02.2019 to the Corporate Debtor, demanding the payment of the outstanding debt. However, there was no reply from the Corporate Debtor for the Demand Notice. The Petitioner has further relied upon his Ledger account (Annexure B) and Bank statements (Annexure F) demonstrating that the Corporate Debtor had failed to make the payment.
5. From the above circumstances it is established beyond doubt that the Petitioner had supplied the goods against agreement dated 22.11.2012 and the same had been duly received and accepted by the Corporate Debtor without any demur or objections, but he had not made payments. Further, the Corporate Debtor had failed to appear despite the Court Notice have been served upon it. Prior to this, the notice served by the Petitioner on the Corporate Debtor on 11.01.2020. The Petitioner has also taken out substituted service by publication of notice in two newspapers on the Corporate Debtor as per the directions of this Tribunal vide order dated 03.01.2022. In these circumstances, the Corporate Debtor has been proceeded against ex-parte.
6. On going through the submissions made by the Learned Counsel for the Petitioner and on perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of Operational Debt to the tune of Rs. 5,32,50,300/- giving a cause of action to the Petitioner to invoke the provisions of Section 9 of the Code. Hence, owing to the inability of the Corporate Debtor to pay its dues, we are of the considered view that this Petition deserves to be admitted. It is ordered accordingly in following terms:

**ORDER**

- a. The above Company Petition No. 1117/IBC/MB/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Cosima Marine Private Limited**.
- b. **Mr. Hiral Miten Shah**, having registration No. IBBI/IPA-001/IP-P00700/2017-2018/11255, having email Id- [18hiral@gmail.com](mailto:18hiral@gmail.com), having address at 1204, Makers Chambers, 5 Nariman Point, Mumbai, Maharashtra-400021, is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. 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.

- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order 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.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, CP 1117 of 2019 is **admitted**.

**Sd/-**

**Anuradha Sanjay Bhatia**  
**Member (Technical)**

**Sd/-**

**Kuldip Kumar Kareer**  
**Member (Judicial)**