

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**IBA/676/2019**

*Under Section 9 r/w Rule 6 of the IBC, 2016*

**In the matter of M/s. Energex Systems India Private Limited**

**M/s. Anju Electricals**

**---Operational Creditor**

**V/s**

**M/s. Energex Systems India Private Limited**

**---Corporate Debtor**

**Order delivered on: 10.09.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Operational Creditor: *Shri. R. Senthil Kumar, Advocate*

*Shri. D. Ebenezar Inbaraj, Advocate*

For the Corporate Debtor : *Shri. J.A Terrence Nesamony, Director*

**ORDER**

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 10.09.2019**

It is an Insolvency & Bankruptcy Application (IBA) filed u/s 9 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Operational Creditor seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor on the

ground the Corporate Debtor defaulted in paying ₹6,43,588 (Principal ₹2,88,605 along with interest for the defaulted period at 18% per annum from 15.05.2012 to 03.04.2019) as against Boiler Electrical Control Panels supplied to the Corporate Debtor.

2. As against the Boiler Electrical Control Panels supplied by the Operational Creditor, the Operational Creditor raised invoices against the Corporate Debtor on 03.05.2011, 06.05.2011, 29.05.2011, 30.07.2011, 10.08.2011, 02.09.2011, 27.09.2011, 09.11.2011, 02.12.2011, 20.12.2011, 23.01.2012, 01.03.2012, 15.05.2012, 15.05.2012 and 15.05.2012, aggregating to principal sum of ₹2,88,605. The Creditor has further submitted that the Corporate Debtor has made part payment of ₹1,00,000 on 14.05.2012, thereafter, when the Operational Creditor sent e-mails on various dates demanding for payment of the remaining balance amount, the Corporate vide e-mails dated 21.05.2014, 11.10.2014, 16.05.2015, 18.04.2016, 10.05.2017 and 04.04.2019 admitted that it owed to pay the remaining balance but not having paid the balance amount along with interest, this Operational Creditor has issued Section 8 notice (Form 3) on 03.04.2019 when it

was returned with an endorsement of "LEFT" on 10.04.2019, the Operational Creditor on 13.04.2019 sent Section 8 notice (Form 3) through e-mail, responding to the same, the Corporate Debtor on 17.04.2019 replied acknowledging the liability and also expressed inability to make payment with a request for time to make payment. The Corporate Debtor having not raised any dispute over the claim nor against the interest claimed over the principal sum, this Operational Creditor has filed this case stating that the Corporate Debtor defaulted in making payment of ₹6,43,588 towards the principal along with interest @ 18% per annum until 03.04.2019.

4. Replying to the same, one of the directors of the Corporate Debtor, namely, Mr. J.A. Terrence Nesamony has submitted that since the Corporate Debtor is unable to make payment to the Operational Creditor, it is obliged to the orders of this Bench. To ascertain as to whether the e-mails placed before this Bench by the Operational Creditor reflecting the invoices raised in the years 2011 and 2012 are within the limitation, this director has placed email correspondence

on his Gmail as reflected in the Company Application moved by the Operational Creditor.

5. On perusal of the application and material annexed to this application, we are of the considered view that this Operational Creditor has proved existence of debt and default, whereby this Bench hereby admits this Company Application by appointing Mrs. Rajalaskshmi Vardarajan as IRP, looking at the consent given by her. This Operational Creditor is further directed to pay remuneration of the IRP, public announcement expenses and other expenses, if any, until constitution of CoC. Accordingly, this IBA/676/2019 is hereby **admitted** with the following directions:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(a) 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;

(b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

(II) 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.

(III) 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.

(IV) That the order of moratorium shall have effect from **10.09.2019** 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.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mrs. Rajalaskshmi Vardarajan as Interim Resolution Professional (Reg. No. IBBI/IPA-003/IP-N000145/2017-2018/11597),351-18, 2<sup>nd</sup> Floor, Ishwarya Flats, 36<sup>th</sup> Street, 1 Block, Anna Nagar, Chennai-600040 E-mail: , Mobile No: 9350583002** with her consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

6. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-Sd-

(**S. VIJAYARAGHAVAN**)  
**Member (Technical)**

-Sd-

(**B. S.V. PRAKASH KUMAR**)  
**Member (Judicial)**