

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

9. C.P.(IB) -3815(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **31.08.2021**

NAME OF THE PARTIES: Moksha Designs Pvt LTd
V/s
Ompal Technologies Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Adv. Chandani Shaikh for the petitioner and Mr. Vikrant Shetty, counsel for the respondent are present through virtual hearing.

Counsel for the respondent/corporate debtor on instruction from his client reported that the Corporate Debtor is not opposing the admission of the Company Petition. Accordingly, the above Company Petition is admitted and detail order would follow:

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 3815/IBC/MB/2019

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

In the matter of

Moksha Designs Private Limited

Plot No. 276, 3rd Floor, Sultan Sadan-
1, Lane No. 3, West End Marg,
Saidulajab, Saket, New Delhi-
110030

.....**Operational Creditor**

Vs

**Omapal Technologies Private
Limited**

(CIN: U72900MH2015PTC264331)
Registered office at: Off 103 F.P. No.
765, TPS III, JN of S V Road & Kora
Kendra Road, Borivali (W), Mumbai,
India

.....Corporate Debtor

Order delivered on: 31.08.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Chandra Bhan Singh, Member (Technical)

For the Applicant: Adv. Chandani Shaikh

For the Respondent: Mr. Vikrant Shetty

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. This Company petition is filed by Moksha Designs Private Limited (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Omapal Technologies Private Limited* (hereinafter called “Corporate Debtor”) by invoking the provisions of Section 9 Insolvency and bankruptcy code (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for resolution of an Operational Debt of Rs. 65,28,940/-
2. The brief facts of the case are as follows:-
 - i. The Corporate Debtor is engaged in the retail business of apparels and fashion accessories through its online platform *flyrobe.com*. It engaged the Operational Creditor to render professional services viz. conducting photoshoots of its products, creating catalogue videos, content writing and other creative content services etc vide the Catalogue Services Agreement dated 08.09.2017.
 - ii. The Operational Creditor rendered its services till 31.10.2018 to the satisfaction of the Corporate Debtor. The Corporate Debtor used to regularly avail the services of the Operational Debtor on montly basis. The Operational Creditor used to raise bi-monthly invoices towards the services rendered for each half of the month. The Corporate Debtor promised to release the dues within 7 days of receipt of each respective invoice.
 - iii. A total of 8 tax invoices and 3 proforma invoices totalling to INR 65,28,940/- have not been paid and remain outstanding till date. The confirmed the existence of the

outstanding dues promising to pay the dues. However, the same has remained unpaid till date.

- iv. The Operational Creditor sent a Demand Notice dated 02.08.2019 under the provisions of the Insolvency and Bankruptcy Code, 2016. However, the Corporate Debtor neither replied to the Demand Notice nor paid the outstanding dues.

FINDINGS

1. The Corporate Debtor, except putting up appearance through Mr. Vikrant Shetty, advocate did not choose to file any reply in the above matter. During the course of the final hearing the counsel appearing for the Corporate Debtor reported no objection for admission of the above Company Petition. Since the Respondent/Corporate Debtor consented for admission of the above Company Petition, this Bench is left with no option except the same.
2. Thus, the debt and default are admitted in this case and the debt is also within limitation. The present Company Petition satisfies all the necessary legal requirements for admission.
3. In view of the above, this tribunal is of the considered opinion that the above company petition is liable to be admitted and accordingly the same is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) -3815(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against *Omapal Technologies Private Limited*.
- b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim

Resolution Professional (IRP) in the petition, this Bench is appointing an IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Manish Shah**, (mdshah0211@gmail.com) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00094/2017-18/10194 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Operational Creditor shall deposit an amount of Rs.2 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.

Accordingly, this Petition is allowed.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)