

In the National Company Law Tribunal
Mumbai Bench.

No. C.P.(IB)-2849/(MB)/2018

Under Section 9 of Insolvency & Bankruptcy Code, 2016

In the matter of

Jet Roadlines (India) Pvt. Ltd. : Petitioner/ Operational Creditor
V/s
EMCO Ltd. : Respondent/ Corporate Debtor

Heard on: 09.07.2019

Order delivered on: 22.07.2019

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

For the Petitioner(s) : 1. Mr. Vaibhav Mohnot.
For the Respondent(s) : 1. Mr. Yakshay Chheda Devanshi,
i/b. Parinam Law Associates.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. A Petition u/s.9 has been submitted in Form No.5 on 27.07.2018 by the Operational Creditor M/s. Jet Roadlines (India) Pvt. Ltd., against the Corporate Debtor M/s. EMCO Ltd., Jalgaon-425003 for an Operational Debt amount of ₹62,20,321/- Plus Interest @ 18% thereon of ₹15,69,492/- totalling ₹77,89,813/-.

2. Brief particulars of the case:- The Petitioner/ Operational Creditor is stated to be involved in the business of Supporting and auxiliary transport activities whereas the Corporate Debtor is involved in manufacturing of electric motors, generators and transformers. Petitioner submitted that services were provided to the Corporate Debtor for which Invoices with Delivery Challans were issued. A computation of outstanding Debt amount, placed on record, is reproduced below:-

"EXHIBIT - E"
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JET ROADLINES INDIA PVT. LTD. BARODA
G.L. Who Receivable Outstanding as on 13/06/18

COMPUTATION

G.L. Name Bill No. / Document No.	Bill Date	Bill Submitted	Bully No	Destination	Bill Amount	Outstanding	Overdue Day's	Interest 18% till 13.06.2018
EMCO LIMITED (ADODARA)								
(BRD) BRD\11844	22-11-2016	19/12/16						
(BRD) BRD\11845	23-11-2016	19/12/16	BRD\21509	URELLA	488632	178271	508	44660.55
(BRD) BRD\11846	25-11-2016	19/12/16	BRD\21516	URELLA	434880	426182	507	106557.18
(BRD) BRD\11847	28-11-2016	19/12/16	BRD\21527	URELLA	470816	461400	505	114907.56
(BRD) BRD\11852	29-11-2016	19/12/16	BRD\21537	URELLA	302528	296477	502	73396.33
(BRD) BRD\11855	30-11-2016	19/12/16	BRD\21548	URELLA	235744	231029	501	57079.99
(BRD) BRD\11865	02-12-2016	19/12/16	BRD\21554	URELLA	314816	308520	500	76073.42
(BRD) BRD\11866	02-12-2016	19/12/16	BRD\21568	URELLA	68320	66954	498	16443.17
(BRD) BRD\11867	02-12-2016	19/12/16	BRD\21572	URELLA	75680	74166	498	18214.36
(BRD) BRD\11868	02-12-2016	19/12/16	BRD\21573	URELLA	67968	66609	498	16358.44
(BRD) BRD\11869	02-12-2016	19/12/16	BRD\21574	URELLA	83328	81659	498	20054.56
(BRD) BRD\11870	02-12-2016	19/12/16	BRD\21576	URELLA	69760	68365	498	16789.69
(BRD) BRD\11871	05-12-2016	19/12/16	BRD\21577	URELLA	82720	81066	498	19908.92
(BRD) BRD\11894	10-12-2016	03/01/17	BRD\21582	URELLA	79904	78306	495	19115.25
(BRD) BRD\11885	10-12-2016	03/01/17	BRD\21599	URELLA	66880	65542	490	15837.82
(BRD) BRD\11895	14-12-2016	03/01/17	BRD\21598	ETWA	65000	63700	490	15392.71
(BRD) BRD\11928	21-12-2016	03/01/17	BRD\21614	URELLA	68736	67361	486	16144.49
(BRD) BRD\11929	21-12-2016	03/01/17	BRD\21630	URELLA	79296	77710	479	18356.59
(BRD) BRD\11933	23-12-2016	03/01/17	BRD\21637	NAGPUR	19500	19110	479	4514.15
(BRD) BRD\11930	23-12-2016	03/01/17	BRD\21640	URELLA	69600	68208	477	16044.76
(BRD) BRD\11931	23-12-2016	03/01/17	BRD\21635	URELLA	80832	79215	477	18715.13
(BRD) BRD\11932	23-12-2016	03/01/17	BRD\21636	URELLA	81184	79560	477	15705.32
(BRD) BRD\11934	23-12-2016	03/01/17	BRD\21639	URELLA	68128	66765	477	15712.85
(BRD) BRD\11935	23-12-2016	03/01/17	BRD\21641	URELLA	68160	66797	477	15779.19
(BRD) BRD\11936	24-12-2016	10/01/17	BRD\21642	URELLA	68448	67079	476	20011.09
(BRD) BRD\11937	24-12-2016	10/01/17	BRD\21644	URELLA	85248	85248	476	15540.00
(BRD) BRD\11938	24-12-2016	10/01/17	BRD\21645	URELLA	67552	66201	476	15657.84
(BRD) BRD\11939	24-12-2016	10/01/17	BRD\21646	URELLA	68064	66703	476	18727.54
(BRD) BRD\11940	24-12-2016	03/01/17	BRD\21647	URELLA	81408	79780	476	19030.11
(BRD) BRD\11941	24-12-2016	20/01/17	BRD\21648	URELLA	81069	81069	476	15937.42
(BRD) BRD\11942	24-12-2016	20/01/17	BRD\21649	URELLA	69280	67894	476	13708.80
(BRD) BRD\11943	24-12-2016	03/01/17	BRD\21652	ALIGARH	58400	58400	476	15900.80
(BRD) BRD\11944	24-12-2016	20/01/17	BRD\21655	URELLA	69120	67738	476	19036.69
(BRD) BRD\11945	25-12-2016	20/01/17	BRD\21656	URELLA	82752	81097	475	19070.25
(BRD) BRD\11947	25-12-2016	20/01/17	BRD\21657	URELLA	83072	81411	475	19231.64
(BRD) BRD\11949	25-12-2016	20/01/17	BRD\21659	URELLA	83776	82100	475	19312.46
(BRD) BRD\11950	25-12-2016	20/01/17	BRD\21661	URELLA	84128	82445	475	18519.30
(BRD) BRD\11951	25-12-2016	03/01/17	BRD\21662	URELLA	80672	79059	475	15426.54
(BRD) BRD\11952	25-12-2016	03/01/17	BRD\21663	URELLA	67200	65856	475	15404.52
(BRD) BRD\11953	25-12-2016	03/01/17	BRD\21664	URELLA	67104	65762	475	15992.25
(BRD) BRD\11948	25-12-2016	03/01/17	BRD\21665	URELLA	69664	68271	475	19202.36
(BRD) BRD\11955	26-12-2016	03/01/17	BRD\21660	URELLA	83648	81975	475	17982.65
(BRD) BRD\11956	26-12-2016	25/01/17	BRD\21671	ETAH	78500	76930	474	12155.18
(BRD) BRD\11957	26-12-2016	25/01/17	BRD\21672	ALIGARH	52000	52000	474	15679.95
(BRD) BRD\11958	26-12-2016	25/01/17	BRD\21673	URELLA	68448	67079	474	15782.56
(BRD) BRD\11959	26-12-2016	25/01/17	BRD\21674	URELLA	68896	67518	474	18670.82
(BRD) BRD\11960	26-12-2016	25/01/17	BRD\21675	URELLA	81504	79874	474	19125.24
(BRD) BRD\11961	26-12-2016	25/01/17	BRD\21677	URELLA	83488	81818	473	19619.06
(BRD) BRD\11962	27-12-2016	25/01/17	BRD\21678	URELLA	85824	84108	473	19284.09
(BRD) BRD\11963	27-12-2016	25/01/17	BRD\21679	URELLA	82672	82672	473	18697.21
(BRD) BRD\11964	27-12-2016	25/01/17	BRD\21680	URELLA	81792	80156	473	18814.54
(BRD) BRD\11965	27-12-2016	25/01/17	BRD\21681	URELLA	80659	80659	473	18945.87
(BRD) BRD\11966	27-12-2016	25/01/17	BRD\21682	URELLA	82880	81222	473	18382.78
(BRD) BRD\11967	27-12-2016	25/01/17	BRD\21684	URELLA	80416	78808	473	18467.98
(BRD) BRD\12014	28-12-2016	25/01/17	BRD\21690	URELLA	80960	79341	472	17540.19
(BRD) BRD\12015	23-01-2017	31/01/17	BRD\21730	URELLA	81376	79748	446	17892.10
(BRD) BRD\12016	23-01-2017	31/01/17	BRD\21731	URELLA	83008	81348	446	17485.20
(BRD) BRD\12017	23-01-2017	31/01/17	BRD\21732	URELLA	81120	79498	446	14795.05
(BRD) BRD\12018	23-01-2017	13/02/17	BRD\21733	URELLA	68640	67267	446	13075.83
(BRD) BRD\12019	24-01-2017	20/02/17	BRD\21739	URELLA	60800	59584	445	17446.00
(BRD) BRD\12020	24-01-2017	20/02/17	BRD\21740	URELLA	81120	79498	445	14282.47
(BRD) BRD\12023	25-01-2017	20/02/17	BRD\21741	URELLA	66560	65229	444	17098.23
(BRD) BRD\12034	28-01-2017	31/01/17	BRD\21748	URELLA	80224	78620	441	14711.18
(BRD) BRD\12036	28-01-2017	25/02/17	BRD\21751	URELLA	69024	67644	441	17577.30
(BRD) BRD\12037	30-01-2017	25/02/17	BRD\21753	URELLA	82848	81191	439	17190.42
(BRD) BRD\12035	30-01-2017	25/02/17	BRD\21755	URELLA	81024	79404	439	17596.56
(BRD) BRD\12041	30-01-2017	06/04/17	BRD\21752	URELLA	81280	81280	439	17320.61
(BRD) BRD\12042	31-01-2017	13/02/17	BRD\21763	URELLA	81824	80188	438	17367.91
(BRD) BRD\12092	25-02-2017	13/02/17	BRD\21764	URELLA	82048	80407	438	26477.26
(BRD) BRD\12107	15-03-2017	06/04/17	BRD\21808	URELLA	130000	130000	413	10324.11
(BRD) BRD\13275	31-03-2018	06/04/17	BRD\21830	URELLA	53000	53000	395	704.91
(BRD) BRD\13276	31-03-2018	15/04/18	BRD\22474	HYDERABAD	102100	102100	14	694.73
(BRD) BRD\13277	31-03-2018	15/04/18	BRD\22469	HYDERABAD	100625	100625	14	686.96
(BRD) BRD\13278	31-03-2018	15/04/18	BRD\22472	HYDERABAD	99500	99500	14	708.53
(BRD) BRD\13279	31-03-2018	15/04/18	BRD\22475	HYDERABAD	102625	102625	14	802.60
(BRD) 0011	16-04-2018		BRD\22477	HYDERABAD	-116250	116250	14	-937930

6220321 1569492

TOTAL Amount with Interest

2.1. According to the Petitioner, the Debt amount fell due on 22.11.2016 till 31.03.2018. The Petitioner submitted that it had reminded the Corporate Debtor to pay the outstanding amount but the same had not been paid so far. As a consequence, the Operational Creditor issued Demand Notice in Form No.3 on 14.06.2018 to the Corporate Debtor.

2.2. The Petitioner submitted that the Corporate Debtor replied to the Demand Notice vide its Letter dated 22.06.2018 as under:-

"We state that the information and calculations provided by you and mentioned in the notice are not correct as the amount claimed under notice is not tallying with our books of account. Hence we are not liable to pay the amount claimed under the said notice."

2.3. The Petitioner, therefore, vehemently argued that in the reply there is no elucidation regarding the outstanding dues and stated that it clearly reflected the blatant attempt by the Corporate Debtor that they are not ready to pay the said outstanding dues.

2.4. Copy of the Statement of Bank Account of HDFC Bank Limited for the period from 13.06.2018 to 30.06.2018 in respect of the Operational Creditor is on record. General Ledger Account for the period from 01/04/2015 to 31/03/2019 is also placed on record.

FINDINGS

3. Considering the totality of the facts and circumstances of the case discussed *supra*, I am of the opinion that the default as defined u/s. 3(12) of The Code is established. Demand Notice has been issued to the Respondent Debtor. The Respondent Debtor, in its reply dated 22.06.2018 *supra* has only stated that "*the information and calculations provided by you and mentioned in the notice are not correct as the amount claimed under notice is not tallying with our books of account*". However, the Corporate Debtor has not taken any serious effort to elucidate/ reconcile the differences of the impugned alleged claim of the Corporate Debtor. The Corporate Debtor also had not provided any information on whether any of the Invoices claimed to be outstanding by the Operational Creditor, had already been paid or "disputed".

This case was first listed on 19.11.2018, 09.01.2019, 06.03.2019, 02.05.2019 and lastly, on 09.07.2019. Even after a lapse of considerable time after First listing of this Petition, no effort to settle the outstanding amount is made by the Corporate Debtor.

4. As a consequence, keeping the admitted facts in mind that, the Operational Creditor had not received the outstanding Debt from the Corporate Debtor and that the formalities as prescribed under The Code have been completed by the Petitioner/ Operational Creditor, it is my conscientious view that this Petition deserves "Admission".

5. The Operational Creditor has proposed the name of the Interim Resolution Professional **Mr. Kedar Ramratan Laddha**, Registration No. IBBI/IPA-001/IP-P00586/2017-2018/11115, Address: 6/5, Sahayog Appartment, Keshavnagar, Subhashbridge, RTO Circle, Ahmedabad Gujarat, Mobile No. +91-9737533000, Email : kladdha@kpsjca.com. The IRP has submitted his consent in Form No.2 and also certified that no Disciplinary Proceedings are pending against him. The proposed IRP is hereby appointed to initiate Corporate Insolvency Resolution Process against the Corporate Debtor.

6. Upon Admission of the Application and Declaration of "**Moratorium**" the Insolvency Process such as Public Announcement etc. shall be made immediately as prescribed under section 13 read with section 15 of The Code. He shall perform the duties as an Interim Resolution professional as defined under section 18 of The Code and inform the progress of the Insolvency Process and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

7. Having admitted the Petition/ Application the provisions of "**Moratorium**" as prescribed u/s. 14 of The Code shall come into operation. As a result, institution of any suit or parallel Proceedings before any Court of Law are prohibited. The assets of the Debtor must not be liquidated until the Insolvency Process is completed. However, the supply of essential goods or services to the Corporate Debtor shall not be

suspended or interrupted during "**Moratorium** Period". This direction shall have effect from the date of this Order till the completion of Insolvency Resolution process.

8. Accordingly, this **CP (IB)-2849/(MB)/2018 stood** Admitted.

9. The Corporate Insolvency Resolution Process shall commence from the date of this order.

Sd/-
(M.K. SHRAWAT)
Member (Judicial)

Date : 22.07.2019.
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