



IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-208
IB-776/ND/2022

IN THE MATTER OF:

Chants Events and Promotions Pvt. Ltd.

....**Applicant**

Vs.

Heaven Ahead Voyage Pvt. Ltd.

.....**Respondent**

SECTION

U/s 9 IBC

Order delivered on 30.10.2023

CORAM:

SHRI MAHENDRA KHANDELWAL,
HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Order pronounced in open court vide separate sheets. IB-776/ND/2022 is **admitted.**

Sd/-
(RAHUL BHATNAGAR)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENCH – V, NEW DELHI
C.P (IB)/776/ND/2022

An application 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:

CHANTS EVENTS AND PROMOTIONS PVT. LTD.

Through Mr. Tanveer Mishra

Registered Address: Shop No. 1, H. No. 723,
Ground Floor, Blockk-B Bunkar Colony, Weavers
Colony, Ashok Vihar New Delhi-110095

...Operational Creditor

Versus

HEAVEN AHEAD VOYAGE PVT. LTD.

Registered Address: H.No. 8728, Near
Filmistan Cinema Hall, Sidhipura,
New Delhi- 110005

...Corporate Debtor

Order Delivered on: 30.10.2023



CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Adv. P K Sachdeva

For the Respondent : Adv. Kanika Sachdeva

ORDER

PER: SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

1. The instant application is filed by Chants Events and Promotions Private Limited (hereinafter referred to as 'Applicant'/ 'Operational Creditor') on 13.10.2022 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code/IBC') read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer to initiate Corporate Insolvency Resolution Process ("CIRP") against Heaven Ahead Voyage Private Limited (hereinafter referred as 'Respondent Company/Corporate Debtor') for failing to make the payment amounting Rs. 2,14,13,142/- (Rupees Two Crores Fourteen Lakhs Thirteen Thousand One Hundred and Forty- Two Only).
2. The Respondent Company i.e Heaven Ahead Voyage Private Limited was incorporated on 21.10.2011 under the provisions of the Companies Act, 1956 having its registered office situated at H.No. 8728, Near Filmistan Cinema Hall Sidhipura, New Delhi- 110005. Since the registered office of the respondent



corporate debtor is in New Delhi, this Tribunal having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under subsection (1) of Section 60 of the Code.

Averments of the Applicants:

3. Briefly stated the facts of the present case as averred by the applicant are that the Operational Creditor is a Pvt. Limited Company and a Event Management Services provider. The Operational Creditor provided event management services to Heaven Ahead Voyage Pvt. Ltd. ("Corporate Debtor"), pursuant to which several due invoices between 20.01.2022 to 21.03.2022 amounting to Rs. 2,44,13,142/- along with interest @18% p.a were raised by the Operational Creditor to the Corporate Debtor. All the Copies of the Invoices were attached as annexure A-4 (Colly) with the present application.
4. Applicant submitted that the Operational Creditor had tried its best to recover the outstanding money but the Corporate Debtor is not repaying the same. Further submitted that the Operational creditor on 13.08.2022 sent the demand notice via speed post and the same got delivered upon the Corporate debtor on 22.08.2022, notifying the default in the payment of the acknowledged dues to the tune of Rs. 2,44,13,142/- (inclusive of interest @ 18% pa) as per Section 8 of Insolvency and Bankruptcy Code, 2016.



5. Further the Applicant submitted that, Pursuant to receipt of the demand notice dated 13.08.2022, the Corporate Debtor remitted an amount of Rs. Rs. 30,00,000/- in various tranches on 18.08.2022 in the bank account of the Operational Creditor. It is submitted that the Corporate Debtor, suddenly stopped making further payments and even stopped responding to the calls of the Operational Creditor.
6. Further the Applicant submitted that the part payment made by the Corporate Debtor to the tune of Rs. 30,00,000/- on 18.08.2022, after receipt of the aforesaid demand notices clearly prove the existence of operational debt and therefore the remaining amount of Rs. 2,14,13,142/- (inclusive of interest @ 18% per annum) is due and payable by the Corporate Debtor to the Operational creditor as on 06.10.2022 is an admitted liability.

Reply of the Respondent Corporate Debtor:

7. Per contra, the respondent through his reply submitted that the Operational Creditor has good relations with the Corporate Debtor and has provided marketing services to the Corporate Debtor for which payments were being made to the Operational Creditor but on account of Covid-19, the company was unable to generate revenues which eventually led to huge losses.
8. Further submitted that due to various restrictions and implementation of lockdown caused great hinderance in the proper functioning of the Corporate



Debtor and such turn of events caused severe financial condition of the Corporate Debtor and consequently the business of the Corporate Debtor was badly hit.

- 9.** Respondent submitted that due to the above stated reasons the Corporate Debtor has no funds or any monetary aid to pay back any dues but does not deny paying them once the funds are arranged by the Corporate Debtor.
- 10.** The Respondent submitted that the Corporate Debtor asserted that the Corporate Debtor has still made few payments and requires additional time to come out of the financial stress.
- 11.** The Respondent submitted that the Corporate Debtor is not in a position to make payments of any amount on immediate basis. Further submitted that the Corporate Debtor requests for some time from the Operational Creditor and agrees that the outstanding dues will be paid by it once the amount is arranged.
- 12.** The Respondent submitted that the Respondent Company is an ongoing concern and is trying to get back on its feet and if the said Application filed by the Operational Creditor is admitted by this Hon'ble Adjudicating Authority the Corporate Debtor will have to face further imminent losses and may not be able to continue its operations.



Analysis and Findings

- 13.** We have heard Ld. Counsel for the both the parties and perused the averments made in the application filed by the parties. The relevant documents annexed with the submissions have been examined. On-going through the submissions made by the Learned Counsel for both the Parties and on perusing the documents placed on record, it is observed that the Operational Creditor provided the event management services to the Corporate Debtor in the month of January 2022 to March 2022 and raised 15 invoices for an amount of Rs. 2,30,65,970/-. The Operational Creditor served the demand notice dated 13.08.2022 the same was duly delivered on 22.08.2022 to the Corporate Debtor. Pursuant to notice served under section 8 of IBC the Corporate Debtor make Part payment to the tune of Rs. 30,00,000/- to the Operational Creditor on date 18.08.2022 and remaining amount of Rs. 2,14,13,142/- (inclusive of interest @ 18% per annum) is still due to be paid by the Corporate Debtor to the Operational Creditor.
- 14.** The Corporate Debtor has acknowledged the remaining debt in its reply to the present Section 9 Application and submitted that the present state of affairs of the Corporate Debtor are not favourable and they require time to pay the amount to the Financial Creditor.
- 15.** We further find that the nature of debt is a “Operational Debt” as defined under section 5 (21) of the Code and the amount of outstanding Operational Debt is



above the pecuniary threshold limit of Rs.1 Crore as envisaged under Section 4 of the Code, 2016. It has also been established that there is a “Default” as defined under section 3 (12) of the Code on the part of the Corporate Debtor. Therefore, the two essential qualifications, i.e., existence of ‘debt’ and ‘default’, for admission of a petition under section 9 of the Code, 2016 have been met in this case.

16. We are also strengthened by the law laid down by the Hon'ble Supreme Court in "Innoventive Industries Ltd. Vs. ICICI Bank and Ors. - (2018) 1 SCC 407 wherein it is observed as follows:-

"The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. Default is defined in Section 3(12) in very wide terms as meaning non-payment of a debt once it becomes due and payable, which includes non-payment of even part thereof or an instalment amount. For the meaning of "debt", we have to go to Section 3(11), which in turn tells us that a debt means a liability of obligation in respect of a "claim" and for the meaning of "claim", we have to go back to Section 3(6) which defines "claim" to mean a right to payment even if it is disputed. The Code gets triggered the moment default is of rupees one lakh or more (Section 4)The corporate insolvency resolution process may be triggered by the corporate debtor itself or a financial creditor or operational creditor. The moment the adjudicating authority is satisfied that a default has occurred, the



application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority."

17. Further, the Hon'ble Supreme Court in Mobilox Innovations Private Limited Vs Kirusa Software Private Limited [Civil Appeal No. 9405 of 2017 reported in (2018) 1 SCC 353, has laid down what the Adjudicating Authority has to examine in an Application under Section 9. The Hon'ble Supreme Court stated as under:

"34. Therefore, the adjudicating authority, when examining an application under Section 9 of the Act will have to determine:

- (i) Whether there is an "operational debt" as defined exceeding Rs 1 lakh?
(See Section 4 of the Act)*
- (ii) Whether the documentary evidence furnished with the Application shows that the aforesaid Debt is due and payable and has not yet been paid?
And*
- (iii) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid Operational Debt in relation to such dispute?*

If any one of the aforesaid conditions is lacking, the Application would have to be rejected. Apart from the above, the adjudicating authority must follow the mandate of Section 9, as outlined above, and in particular the mandate of



Section 9(5) of the Act, and admit or reject the Application, as the case may be, depending upon the factors mentioned in Section 9(5) of the Act.”

- 18.** Further it is a settled proposition of law that an application under Section 9 of the Code, 2016 will have to be admitted if all the conditions stipulated in clauses (a) to (e) of Section 9(5)(i) of the IBC are satisfied.
- 19.** Having regard to the conspectus of facts of the present case and the judgment cited (supra), this Adjudicating Authority is of the considered view that the Corporate Debtor is in default of payment of the outstanding operational debt owed to the applicant and the mandatory requirements as prescribed under Section 9(5) of the Code, 2016 are satisfied. The word ‘shall’ in section 9 of IBC make it mandatory to the Adjudicating Authority to admit the Application filed under section 9 of IBC if the Applicant fulfilled the required criteria mentioned under the IBC.
- 20.**
- 21.** In view of the above, the present company application (C.P. No. (IB)- 776 (ND)/2022) stands admitted and the CIRP is hereby initiated against Heaven Ahead Voyage Private Limited.
- 22.** The Operational Creditor has proposed the name of Mr Khusvinder Singhal Regd. No- IBBI/IPA-002/IP-N00888/2019-2020/12833 as an Interim Resolution Professional. Therefore, this Adjudicating Authority appoints Mr Khusvinder Singhal Regd. No- IBBI/IPA-002/IP-N00888/2019-2020/12833 as an Interim Resolution Professional. A Copy of written communication by the proposed Interim Resolution Professional in Form 2 along with Certificate of Registration issued by IBBI are annexed as ANNEXURE A-3 with the present Application.



23. We direct the applicant to deposit with the IRP a sum of Rs.2 lacs to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor.

24. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(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.”

(e)The IB Code 2016 also prohibits Suspension or termination of any license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, on the grounds of insolvency, subject to the condition that there



is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.”

- 25.** The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations.
- 26.** It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under section 19 of the IBC to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day-to-day affairs of the ‘Corporate Debtor’.
- 27.** A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Let copy of the order be served to the parties.

Sd/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

Sd/-

(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)