IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH

CORAM: DR. POONDLA BHASKARA MOHAN, HON'BLE MEMBER (Judicial)

SHRI RAGHU NAYYAR, HON'BLE MEMBER (Technical)

Company Petition No. (IB)- 58/9/JPR/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:

SITI NETWORKS LIMITED

...Operational Creditor/Applicant

VERSUS

BHOOMIKA MEDIA INITIATIVE PRIVATE LIMITED

...Corporate Debtor/Respondent

For the Applicant: Gaurav Sharma Saraswat, ADV.

For the Respondent: None-appeared

Order Pronounced on: 05.08.2019

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MEMO OF PARTIES

SITI NETWORKS LIMITED
Office At: - Unit No. 38, First Floor,
A Wing, Madhu Industrial Estate,
Pandurang Budhkar Marg, Worli,
Mumbai, Maharashtra - 400013

...Operational Creditor/Applicant

VERSUS

BHOOMIKA MEDIA INITIATIVE PRIVATE LIMITED
Registered Office at: 4, Vivek Vihar
Near Gandhi Nagar Railway Station,
Jaipur, Rajasthan - 302015

...Corporate Debtor/Respondent

ORDER

1. This Application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule-4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Siti Networks Limited (for brevity 'Applicant') claiming to be an Operational Creditor with a prayer for initiation of Corporate Insolvency Resolution Process against Bhoomika Media Initiative Private Limited (for brevity "Corporate Debtor").

2. The Applicant is a Public Limited Company incorporated under the provisions of Companies Act, 1956 having its Registered Office at Unit No. 38, First Flor, A Wing, Madhu Industrial Estate, Pandurang Budhkar Marg, Worli, Mumbai, Maharashtra -400013. The Applicant is engaged in the business of distribution/ redistribution / transmission of television signals of various broadcasters through cable networks across India including in DAS notified areas.

3. The Corporate Debtor is a Private Limited Company incorporated under the provisions of Companies Act, 1956 on 01.05.2012, duly registered with Registrar of Companies, Jaipur having CIN: U22130RJ2012PTC038755, having its Registered Office at 4, Vivek Vihar Near Gandhi Nagar Railway Station, Jaipur, Rajasthan – 302015.

4. The Applicant submits that the Corporate Debtor acting on behalf of its broadcaster entered into three Channel Placement Agreements (CPA), two dated 12.08.2016 and one dated 02.01.2017 with the Applicant for accessing network of Applicant Company in DAS notified Areas. The terms of all the three agreements were for one-year period. In accordance with CPA Agreement dated 02.01.2017 the agreed payment fee for the term of CPA was Rs. 18,00,000/- per annum exclusive of all applicable taxes. In accordance with clause 9 (v) of the CPA dated 02.01.2017, in event of delay/ failure to pay the placement fee, the Corporate Debtor would be liable to pay

interest @ 18% per annum.

5. The Applicant further submits that after the end of CPA dated 02.01.2017 on 31.12.2017, on request of Corporate Debtor the Operational Creditor continued providing access and placing the channel on its network on the same terms and conditions and accordingly invoices dated 21.03.2018, 15.05.2018, 30.08.2018, 22.10.2018 each amounting to Rs. 5,31,000 were raised against Corporate Debtor. Copy of Invoices are Annexed with the Application. It is submitted that part payment has been made by the Corporate Debtor. The last payment was made on 06.12.2018 of Rs. 1,00,000/- by the Corporate Debtor.

6. The Applicant has sent several reminders for payment of outstanding amount of Rs. 13,82,300/- to the Corporate Debtor but all in vain. Thus, the Applicant issued demand notice under Section 8 of the Insolvency and Bankruptcy Code dated 14.01.2019 on the Corporate Debtor, which was duly received by the Corporate Debtor through post on 17.01.2019. Copy of tracking report as proof of service of said section 8 notice is annexed.

7. It is submitted that the Corporate Debtor did not reply to said notice nor made any payment after receiving the demand notice. The Applicant therefore filed present application under section 9 of IBC, 2016 and duly served to the Corporate Debtor. The total amount claimed by the Applicant as mentioned in Part IV is a sum of Rs. 13,82,300/-.

8. Perusal of the records of the proceeding before this Tribunal shows that despite service of notice upon the Corporate Debtor as brought out by the order dated 15.03.2019 and in view of non-appearance, this Tribunal was constrained to proceed ex-parte against the respondent and the submissions of learned counsel for the Applicant were heard on 1.08.2019 and order was reserved.

9. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of Corporate Debtor is situated in Jaipur and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the purview of Law of Limitation.

10. It is apparent from the record that the payment of claim amount has been defaulted by the Operational Creditor as despite the issue of Section 8 notice by the Operational Creditor and the receipt of the same by the Corporate Debtor, the payment was not made. In these circumstances the claim stands established and prima facie presumption raised that there is default in payment of the amount due to Operational Creditor and no dispute is in existence. Hence, this Tribunal is inclined to initiate the proceedings namely, Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor as envisaged under the Provisions of IBC, 2016.

11. The Applicant has not proposed the name of any Interim Resolution Professional. In view of the same, this Tribunal appoints Mr. Prashant

Sharma having Registration No. IBBI/IPA-001/IP-P00290/2017-18/10534 and email address prashantfcajaipur@yahoo.com and contact number 9414055801, as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15,17,18,19,20 and 21 of the Code.

12. The consequences of initiation of CIRP shall be inter alia, as follows: -

(i) The Resolution Professional Mr. Prashant Sharma, having Registration No. IBBI/IPA-001/IP-P00290/2017-18/10534 is hereby appointed as the Interim Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the Provisions of IBC, 2016, including issue of publication in widely circulated newspapers as contemplated under the Provisions of IBC, 2016 and calling for the claims from the creditors of the Corporate Debtor and collating of the same shall be done.

(ii) Further as a consequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during CIRP of the Corporate Debtor. The IRP shall carry out is Corporate Insolvency Resolution Process strictly as per the timelines specified and as envisaged under the Provisions of IBC, 2016 in relation to the Corporate Debtor.

(iii) The said IRP shall act strictly in compliance with the provisions of IBC, 2016. With a view to defray his expenses to be incurred and fees on account, the Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Two Lakh only) to the account of IRP within 3 days from the date of this order. The IRP shall duly file the status report appraising this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Sections 17 and 19 of IBC, 2016 all personnel of the Corporate Debtor including its promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

(iv) In terms of Section 9 of IBC, 2016 a copy of this order shall be communicated to the Operational Creditor, Corporate Debtor as well as the Interim Resolution Professional appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.

In the circumstances this Application stands admitted.

-Sd- -Sd-

SH. RAGHU NAYYAR, **DR. POONDLA BHASKARA MOHAN**

MEMBER (TECHNICAL) **MEMBER (JUDICIAL)**