NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1171(ND)/2019

In the matter of

RQS Engineering Pvt. Ltd
Registered Office
W-17, Okhla Industrial Area, Phase-II,
New Delhi, Delhi 110020

......Operational Creditor

V/s

Aditya Thermopack Pvt. Ltd.
Registered Office
B-36, Allahabad Bank Staff CGHS Ltd.
Mayur Kunj Vasundhra Enclave New Delhi
New Delhi DL 110096 IN

.........Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on 30.07.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present: Mr. Nagaraj Subramanian, Advocate for the Petitioner
Respondent proceeded ex parte

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

The Petitioner, as an Operational Creditor, has prayed for initiation of Corporate Insolvency Resolution Process of the respondent/Corporate Debtor on grounds of its inability to liquidate its outstanding dues.

2. As per averments, the Operational Creditor has been supplying goods to the Corporate Debtor for which a running account was maintained. Two invoices were raised on 19.09.2019 & 20.09.2019. Since the amount due was not paid despite various reminders, the Operational Creditor has now followed it up by filing the present petition praying for Insolvency and Resolution Process of the Corporate Debtor after issuing a Demand Notice dated 23.04.2019 under Section 8 of the Code. The petition is annexed with the statutory requirements under Section 9(3)(b) & 9(3) (c).

3. Upon issuance of notice, none appeared on behalf of the Corporate Debtor before this Tribunal despite service. They were therefore proceeded ex parte.

4. The Operational Creditor has averred that the Corporate Debtor in its email has acknowledged the outstanding liability and while promising to liquidate the same in instalments, has failed to take necessary steps.

Reliance is placed on an email dated May 22, 2019 sent by the Corporate Debtor, acknowledging their liability to repay which is reproduced as under:

> *BBC bbc@adityagroup.co*
>
> *To: rqseps@gmail.com, rqsengg@gmail.com*
>
> *Cc: Nagaraj subramanian<nagsubrallb@gmail.com>, satbirpurchase@adityagroup.co*
>
> *Dear Mr. Yashpal Ji,*
>
> *As telephonic discussion held between you and Mr. Jitendra our purchase head, please find below our payment plan.*
>
> *Rs. 3,00,000.00 through RTGS on 31.05.2019*
>
> *Rs. 3,00,000.00 through RTGS on 18.06.2019*
>
> *Rs. 3,00,000.00 through RTGS on 30.06.2019*
>
> *Rs. 3,00,000.00 through RTGS on 15.07.2019*
>
> *Rs. 3,22,200.00 through RTGS on 31.07.2019*
>
> *We therefore request to please cooperate with us as you know our plant has been devasted due to fire.*
>
> *Please also inform to your lawyer to cancel the suit*
>
> *Kindly confirm.*
>
> *Regards*
>
> *Brij Bhushan Chauhan*
>
> *CFO*
>
> *Aditya Group*
>
> *8586930495*

5. Keeping in view that there is no resistance to the present petition and on the contrary, there is an acknowledgement of the outstanding liability, the prayer of the Operational Creditor merits consideration.

6. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

"(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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;

(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.

Further,

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

> *"Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."*

7. The Operation Creditor has proposed the name of Mr. Subramanian Natarajan CPA IP, as the IRP in this case. His particulars are: Registration No. IBBI/IPA-002/IP-N00698/2018-19/12317,

address: Flat No. 56, Pocket A-4, Konark Apartments, Kalkaji Extension, New Delhi- 110019, email id: SUBRAIRP@GMAIL.COM. Consent and certificate of eligibility of Mr. Subramanian Natarajan CPA IP, are on record. We therefore confirm him as the IRP in this case. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21. The IRP shall file his report within 30 days as per statutory requirements.

8. Copy of the order be communicated to both the parties as well as to the IRP.

9. To come up on for 16th September, 2019 further consideration.

-Sd-

(V.K. Subburaj)
Member (T)

-Sd-

(Ina Malhotra)
Member (J)