IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CP/884/IB/2018

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. Real Value Promoters Private Limited

M/s. Nuvoco Vistas Corporation Limited

---Operational Creditor

V/s

M/s. Real Value Promoters Private Limited

---Corporate Debtor

Order delivered on: 30.07.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Mr. A. Kevin Thomas, Advocate*
For M/s.King & Partridge

For the Corporate Debtor : *Mr. G. Baskar, Advocate*
For Ms.Vasuki, Advocate

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in the Open Court on: 30.07.2019

It is a Company Petition filed u/s 9 of the Insolvency & Bankruptcy Code, 2016 ("**the Code**") for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate

Debtor on the ground that the Corporate Debtor failed to pay ₹27,55,138 as on 20.06.2018 (Principal + interest). The Operational Creditor counsel has further stated that since this Corporate Debtor has paid ₹6,53,656 soon after filing of this company petition, the Operational Creditor, discounting the part payment made by the debtor, has sought this Bench to construe its claim as ₹21,01,482 against the original claim of ₹27,55,138.

2. On perusal of this company petition, it appears that this Corporate Debtor (Developer), doing real estate business, raised Purchase Orders dated 23.04.2016, 10.05.2016, 07.06.2016 and 18.06.2016 upon the Operational Creditor for supply of Ready Mix Cement. In pursuance thereof, the Operational Creditor having supplied Ready Mix Cement to the Corporate Debtor, upon which, the Operational Creditor has raised invoices dated 06.05.2016 (2 invoices on the same date), 12.05.2016, 11.06.2016 (2 invoices on the same date) and 21.06.2016 for an amount of ₹18,74,109 with interest clause to pay the principal amount along with interest @ 24% per annum (i.e. ₹8,81,028), in the event the Corporate Debtor failed to

pay the principal within credit period of thirty days as mentioned in the invoices.

3. Since the Corporate Debtor failed to pay the same within credit period, this Operational Creditor issued Section 8 Notice (Form 3 Demand Notice) on 13.09.2017 to the Corporate Debtor demanding payment of the invoice amount along with interest within ten days from the date of receipt of Section 8 Notice, this Corporate Debtor, despite receipt of the notice, has neither given reply nor paid the amount as demanded by the Operational Creditor. For there being no response from the Corporate Debtor, this Operational Creditor has filed this Application for initiation of CIRP against this Corporate Debtor.

4. Even after filing of this case also, for there being no contention from the side of the Corporate Debtor saying that this claim is hit by pre-existing dispute and having the Corporate Debtor even made part payment after filing of this case, this Bench is of the view that this Operational Creditor has proved existence of debt and default, therefore, this Company Petition is hereby admitted by

appointing Mr. C. Shenbagamoorthy as IRP with a further direction to this Operational Creditor to pay remuneration of the IRP and other expenditure that IRP incurs in discharging his duties until RP has been appointed by the CoC, Accordingly, directed as follows:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(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.

(II) 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.

(III) 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.

(IV) That the order of moratorium shall have effect from **30.07.2019** 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.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mr. C. Shenbagamoorthy as Interim Resolution Professional (Reg. No. IBBI/IPA-001/IP-**

P01628/2019-2020/12603), E-mail: ipeak36@gmail.com, Mobile No: 9994931792 with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

5. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

(S. VIJAYARAGHAVAN)
MEMBER (Technical)

(B. S.V. PRAKASH KUMAR)
MEMBER (Judicial)

VS/TJS