

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. (IB) No. 3719/NCLT/MB/2018
Under Section 9 of the I&B Code, 2016

In the matter of:

Nuvoco Vistas Corporation Limited

...Operational Creditor / Applicant
V/s

Neev Infrastructure Private Limited

...Corporate Debtor / Respondent

Order Dated: 23rd September 2019

Coram: Hon'ble Member (Judicial): Mr V.P. Singh
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Applicant: Adv. Ronak K. Parekh

For the Respondent: Adv. Promit Sengupta & Adv. Sumit Kumar Singh

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This Application has already been admitted vide our Order dated 23.09.2019.
2. This is an Application being CP 3719(IB)/MB/2018 filed by **Nuvoco Vistas Corporation Limited**, the Operational Creditor / Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Neev Infrastructure Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
3. The Application is filed claiming a total default of ₹15,27,393/- (Rupees Fifteen Lakh Twenty Seven Thousand Three Hundred and Ninety Three Only) including interest @24% p.a. The Application is filed by Mr. Nilesh Bhujbal, Authorized Representative of the Operational Creditor duly authorised to file this application vide Letter of Authority dated 19.01.2018.
4. The Applicant submits that it supplied "Ready Mix Concrete (RMC)" vide various Invoices between 14.10.2016 to 23.11.2016 as per the Purchase Orders raised by the Corporate Debtor. The Purchase Orders and Invoices along with Excise Invoice Cum Delivery Challan for the materials supplied are annexed to the Application.
5. The Applicant submits that despite acknowledging the invoices and receiving the material in good condition without any protest



the Corporate Debtor failed to pay the due amount under the invoices. Therefore, the Applicant issued Reminder Letter dated 09.06.2017 to the Corporate Debtor requesting the payment of outstanding operational debt. The Corporate Debtor neither replied to the letter nor made the payment. Copy of Reminder Letter is annexed to the Petition.

6. The Applicant submits that the Corporate Debtor has accepted and admitted to its liability to repay the outstanding operational debt of ₹10,82,162/- (Rupees Ten Lakh Eighty Two Thousand One Hundred and Sixty Two Only) by acknowledging the Balance Confirmation Letter dated 08.08.2017 issued by the Applicant. Copy of the Balance Confirmation Letter reflecting the Acknowledgement of Corporate Debtor is annexed to the Application.
7. The Applicant submits that it issued Demand Notice to the Corporate Debtor under Section 8 of the I&B Code demanding payment of outstanding debt of ₹10,82,162/- (Rupees Ten Lakh Eighty Two Thousand One Hundred and Sixty Two Only) along with interest at 24% p.a. The Corporate Debtor failed to reply to the Demand Notice.
8. The Counsel for the Corporate Debtor appeared on various dates of hearing and sought time for filing Reply. Accordingly, on 06.08.2019 by our Order of the same date the Corporate Debtor was given last opportunity to file Reply. However, the Corporate Debtor failed to file Reply and on next date of hearing and Counsel for Corporate Debtor made oral submissions to settle the matter and for filing consent terms.
9. We have heard the parties and perused the records.
10. On perusal of the documents submitted by the Applicant, it is clear that the Applicant had supplied RMC material and Corporate Debtor had duly received the material. The Bank Certificate shows that the Corporate Debtor has not credited payment of invoices to the account of the Applicant. It is also evident that the Corporate Debtor has admitted the operational debt by way of its Acknowledgement to the Balance Confirmation Letter dated 08.08.2017 wherein the Corporate Debtor has confirmed the balance outstanding due towards the Applicant. Further, the Corporate Debtor has neither replied the Demand Notice nor has filed Reply to the present Application even after seeking and affording many opportunities and thereby have failed to raise any dispute. Therefore, we do not have any objection on record against the admission of this Application.



11. The Application is complete and has been filed under the proper form within limitation. Copy of the Demand Notice in Form 3, dated 06.02.2018 along with the postal track report reflecting the due receipt of the Notice by the Corporate Debtor, Affidavit in compliance of section 9(3)(b) dated 27.09.2018 stating that the Applicant has not received any notice of dispute from the Corporate Debtor and Bank Certificate dated 18.06.2018 in compliance of section 9(3)(c) have been filed by the operational creditor in support of its claim.
12. The Applicant, having supplied goods to the Corporate Debtor for which the Corporate Debtor has failed to make payments, is an Operational Creditor as per the provisions of the I&B Code, 2016. The Corporate Debtor has not raised any dispute in respect of the goods and the amount to be paid to the Applicant. To the contrary, the Corporate Debtor as acknowledged its liability to repay a sum of ₹10,82,162/- (Rupees Ten Lakh Eighty Two Thousand One Hundred and Sixty Two Only). The debt amount of more than Rupees One Lakh and default of the Corporate Debtor has been established and the Application deserves to be admitted.
13. The Applicant has not proposed the name of an insolvency resolution professional to act as Interim Resolution Professional and carry out the functions as mentioned under I&B Code, 2016.
14. The Application under sub-section (2) of Section 9 of I&B Code, 2016 is complete. The existing operational debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the Application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 9 of I&B Code, 2016, presented by **Nuvoco Vistas Corporation Limited**, Operational Creditor / Applicant against **Neev Infrastructure Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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 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 the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
- VI. That this Bench at this moment appoints **Mr. Arun Kumar Gupta**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P01594/2019-2020/12496]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

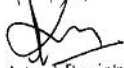


The Registry is at this moment directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

23rd September 2019

Certified True Copy
Copy Issued "free of cost"
On 11/09/19


Assistant Registrar
Company Law Tribunal Mumbai Bench

Sd/-
V.P. SINGH
Member (Judicial)