

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
COURT-III**

**IB-1207/ND/2019** filed under Section 9 of the  
Insolvency and Bankruptcy Code, 2016 r/w  
Rule 6 of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules,  
2016

*In the matter of M/s D. I. Packaging Pvt. Ltd.*

**M/s. Bharatiya Roadlines Pvt Ltd.**

...Operational Creditor

Versus

**M/s. D. I. Packaging Pvt. Ltd.**

...Corporate Debtor

Order delivered on 17<sup>th</sup> December, 2019

CORAM:

Dr. P.S.N Prasad  
Member (Judicial)

KAPAL KUMAR VOHRA,  
Member (Technical)

*For the Operational Creditor: Mr. Ajay Kohli, Mr. S.S. Sobti,  
Ms. Ritu Sobti,  
Ms. Priyanka Ghorawat,  
Mr. Prabhakar Pandey,  
Ms. Pooja Vohra, (Advocates)  
Through Kohli & Sobti, Advocates*

*For the Corporate Debtor: Ex Parte*



## ORDER

Per: Dr. P.S.N Prasad Judicial Member

1. The Ld. Counsel for the Operational Creditor (OC) is present. There is no representation on behalf of the Corporate Debtor (CD). As seen from order dated 07.11.2019, the CD was proceeded ex parte and the matter was fixed for final hearing.

2. Under adjudication is an Application numbered as IB-1207/ND/2019 that came to be filed by the OC under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016), r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, with the prayers to initiate CIR Process (CIRP) against the CD *viz. M/s. D. I. Packaging Pvt. Ltd.*, declare moratorium and appoint Insolvency Resolution Professional (IRP).

3. The Ld. Counsel for the OC submitted that an amount of Rs.6,02,088/- inclusive of interest @ of 18% per annum is outstanding against the CD which is due and payable. It is submitted that the OC, inter alia, is engaged in the business of transportation services. The CD is private company limited by shares, had approached the OC for the service of transporting its consignment. The OC, as per its business practice raised bills, inter-alia in respect of the freight charges payable by the CD towards the carriage. The Terms of the service were mutually agreed between the OC and the CD. As per the Terms, the CD was bound to make payment within 7 days from the

date of receiving the respective consignment at the concerned site in respect of each bill raised by the OC. In defiance of the Terms as agreed, the CD failed to make payment in respect of the Invoice No.15410 dated 16.03.2017 amounting to Rs. 8,53,000/- has been placed on record.

4. The OC received a composite sum of Rs 4,50,000/- on 04.04.2017, 12.04.2017 and 12.11.2018 as part payment from the CD. Further, a demand notice in Form-3 was sent on 01.10.2018, thereby calling upon the CD to make payment in respect of the outstanding dues within a period of 10 days from the receipt of the notice. Upon receipt of the demand notice, the CD handed over a cheque bearing no. 000533 drawn on HDFC Bank of Rs. 1,00,000/- with a request to present the cheque when the date is informed. The OC adjusted the amount of Rs. 1,00,000/- after the cheque was credited.

5. The OC has placed on record the invoice no. 15410 dated 16.03.2017, Consignment note No.18182 dated 26.02.2017 and Consignment note No. 18183 dated 26.02.2017 along with the notice given under Section 8 of the IBC, 2016.

6. The notice under Section 8 of IBC, 2016 was sent on 25.02.2019 through speed post. The proof of delivery is also placed on record. The CD has not replied to the demand notice sent by the OC. The OC has also complied with the provisions of Section 9(3) (b) and (c) by placing on record an affidavit wherein under para 3, it is deposed that no notice of dispute has been received by the OC in relation to unpaid debt. The Statement of Accounts as on 25.02.2019 is placed at page 42 which mentions that as on 25.02.2019, the total amount due is Rs. 6,02,088/-.



7. In the light of the contents of the Application and the documentary evidence placed on record, this authority is satisfied that an amount of Rs. 6,02,088/- is due and payable by the CD to the OC, which it failed to pay. The OC has fulfilled all the requirements of law for admission of the Application. Therefore, the Application is **admitted** and the commencement of the CIRP is ordered, which ordinarily shall be completed within 180 days, reckoning from the day this order is passed.

8. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, 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 (54 of 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.

9. The supply of essential goods or services of the CD shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.



10. The OC has not proposed the name of any Resolution Professional for appointment as IRP. Therefore, Mr. Puneet Sachdev is hereby appointed as IRP. There is no disciplinary proceeding pending against the IRP. The IRP is directed to take charge of the CD's management immediately. He is directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of IBC, 2016. The Directors of the CD, its Promoters or any person associated with the Management of the CD are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the IBC, 2016.

12. The OC and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. The e-mail and other details of the IRP are as follows: -

Mr. Puneet Sachdev  
Registration No.: IBBI/IPA-001/IP-P01124/2018-19/11821  
E-Mail: psachdev78@gmail.com  
Mobile No.: 9811528310

13. The Registry is also directed to communicate this Order to the OC, the CD, IRP and the concerned RoC.



14. There is no Order as to cost. The Order is pronounced in the open court.

S=d


**(K.K. VOHRA)**  
MEMBER (TECHNICAL)

S=d

**(Dr. P.S.N PRASAD)**  
MEMBER (JUDICIAL)

Note: -

Pronounced today in court in pursuance of power under  
Surjit /V Rule 151 of NCLT Rules 2016 as Hon'ble Member (Judicial)  
Dr P.S.N. Prasad is not holding court today.

  
(MADHU NARULA)  
COURT OFFICER