

SL No. 101

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON 16.11.2021 AT 10:30 AM
THROUGH VIDEO CONFERENCE

CP (IB) No.525/9/HDB/2019
U/s 9 of Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF:

Binjusaria Ispat Pvt Ltd

...Operational Creditor

Vs

Abhirama Steels Ltd

...Corporate Debtor

CORAM:

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER JUDICIAL
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER TECHNICAL**

ORDER

Order is pronounced. The petition is admitted vide separate order.


MEMBER (T)


MEMBER (J)

karim

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

**CP(IB) No. 525/9/HDB/2019
U/s. 9 of Insolvency & Bankruptcy Code, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016**

In the matter of:

M/s. Binjusaria Ispat Pvt. Limited
Represented by its Director
Sri Sumeeth Kedia, S/o. Vinod Kedia
Aged about 36 years, Occ: Director
Office situated at Sy.No.133/A
Teegapur Village, Kothur IDA
Mahaboobnagar District, T.S.

.... Operational Creditor

Vs.

M/s. Abhiram Steels Limited
Rep. by its Director
Mr. Palaparty abhishek
S/o. P.V.R.Murthy
Regd. Office # 102, Sahithi Arcade
Beside Police Station
S.R.Nagar, Hyderabad.

... Corporate Debtor

Date of Order: 16.11.2021

Coram:

Hon'ble Dr. N.V.Rama Krishna Badarinath, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / Counsels present:

For the Petitioner : Mr. Sharad Sanghi, Ms. A. Sandhya Rani, Mr. G.
Jagadish, Advocates

For the Respondent: Mr. Sourabh Agarwal, Advocate

Heard on: 21.10.2021, 22.10.2021





[Per: Bench]

ORDER

1. The instant Petition is filed by **M/s. Binjusaria Ispat Pvt. Ltd.** alleging that **M/s. Abhirama Steels Limited / Corporate Debtor** had defaulted an amount of **Rs.1,77,15,636/- (Rupees One Crore Seventy Seven Lakhs Fifteen Thousand Six Hundred and Thirty Six only)** alongwith interest @ 18% for the period from 04.04.2016 to 04.03.2019. The list of invoices amounting to **Rs.1,77,15,636/- is shown as Annexure-'A' (Colly.) at page nos. 13 to 36 of the petition.**

Hence, this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, r/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. **The averments of the petition filed by the Petitioner/Operational Creditor in brief are described hereunder:**
 - i. It is averred that pursuant to an understanding between the Operational Creditor and the Corporate Debtor, against the oral Purchase Order given by the Corporate Debtor, the Operational Creditor supplied and delivered Mild Steel Billets to the Corporate Debtor as per the specifications and raised tax invoices for an amount of Rs.1,77,15,636/- during the year 2015-2016 with 90 days credit and no dispute was raised at the time of delivery of Mild Steel Billets by the Corporate Debtor.
 - ii. It is averred that after continuous persuasion for payment, both the parties have entered into a Memorandum of Understanding (MOU) on 13.02.2016, in which M/s. Abhirama Steels Limited / Corporate Debtor





Date of Order: 16.11.2021

referred as 1st Party of the Second Part and Mr. Palaparthi Abhishek, who is the Director of the Corporate Debtor referred as 2nd Party of the Second Part. The 2nd part agreed and declared that an amount of **Rs.1,77,15,636/-** is due towards sale consideration of the goods, which will be paid by 29.02.2016 and issued eight cheques for payment of the due amount stating that in the event of dishonour of the cheques, the appropriate legal action will be initiated as per law and in that case the Party of the first part is entitled to levy interest @ 18% per annum and need not wait till the date when the remaining cheques are dishonoured. **A copy of the MOU is shown as Annexure-F at page nos. 77 to 81 of the petition.**

- iii. A copy of Ledger Account alongwith Outstanding Statement in respect of the Account of Corporate Debtor **is shown as Annexure-'D' (Colly.) at page nos. 67-74 of the petition.**
- iv. A copy of Bank Statement of Operational Creditor with M/s. HDFC Bank is shown as **Annexure-'J' at Vol.1.**
- v. It is averred that the Operational Creditor has filed C.P.No.186/2016 before the Hon'ble High court of Telangana, Andhra Pradesh under Sec.433, 434 & 439 of the Companies Act, 1956 on 03.06.2016 and by the time the Notices in the said CP not being served on the Corporate Debtor, the present Tribunal being formed and according to Rule 5 of the Notification, the present case has been transferred to this Hon'ble Tribunal as per the orders dated 07.06.2018.
- vi. It is averred that as a counter blast to the proceedings filed under Section 138 of Negotiable Instrument Act and the winding up proceedings initiated before the Hon'ble High Court, the Corporate Debtor filed a Civil Suit vide OS No.487/2016 on the file of X Addl. Chief Judge, City Civil Court at Hyderabad on false grounds for recovery of an amount of Rs.57,50,785/- towards damages and the same is pending.



- vii. It is averred that the present Operational Creditor has also filed a suit for recovery of an amount of Rs.2,28,44,310/- against Corporate Debtor on 04.08.2017 vide C.O.S.No.245/2017 before the XXIV Additional Chief Judge, City Civil Court, Hyderabad and the same is pending.
- viii. It is averred that the Petitioner left with no further option, filed the instant petition.
3. The averments of the Counter dated 06.12.2019 filed by the Respondent/Corporate Debtor in brief are described hereunder:
- i. It is averred that ab initio, the company petition filed by the Operational Creditor is devoid of merits, not maintainable and therefore needs to be dismissed in limini.
- ii. It is averred that before commencement of the present application as per the Insolvency and Bankruptcy Code, the Operational Creditor is bound to send statutory demand notice to the Corporate Debtor. The Operational Creditor has not sent any statutory notice to the Corporate Debtor more particularly under Section 8 of the IBC alongwith the said statutory notice Operational Creditor is also liable to send copy of an invoice demanding payment of the amount involved in default to the Corporate Debtor but whereas in the present case the Operational Creditor failed to give any demand notice to the Corporate Debtor under Section 8 of the IBC. As such, the present application is liable to be dismissed on this ground alone.
- iii. The Corporate Debtor is relied on the Order of Supreme Court of India in the case of "**Mobilox Innovations Private Limited vs. Kirusa Software Private Limited**" in which it was held that the notice under Section 8 of the IBC is a mandatory provision and the provisions of



Date of Order: 16.11.2021

the Code have to be followed and Section 8 provides for the requirements which should be complied with prior to filing an application under Section 9 of the Code without which the present application is liable to be dismissed.

- iv. It is averred that it is false to say that the Corporate Debtor is liable to pay a sum of Rs.1,77,15,636/- to the Operational Creditor. Further, the Corporate Debtor denies all the allegations against him placed by the Operational Creditor in Part IV of the Form-5.
- v. It is averred that the Operational Creditor supplied material to the Corporate Debtor against which invoices were also raised by the Operational Creditor but the material supplied by the Operational Creditor were totally defective and the same was informed to the Operational Creditor but Operational Creditor failed to come forward and rectify the same. Having promised to take back the inferior quality material, the Operational Creditor never complied with the same and now demanding payment for inferior quality material is highly deplorable.
- vi. It is also false to say that the Corporate Debtor agreed to pay 18% interest to the Operational Creditor on the invoice amount if the Corporate Debtor failed to make the payment on its due date.
- vii. It is denied that the allegation of the Operational Creditor that the Corporate Debtor has issued cheques to the Operational Creditor. In fact, blank cheques were given to the Operational Creditor as a security at the time of supply of material which was mischievously presented by the Operational Creditor and on dishonour of the same, the Operational Creditor filed CC No.88/2016 before the Hon'ble V Special Magistrate, Hyderabad and the matter is still pending for adjudication.





Date of Order: 16.11.2021

- viii. It is averred that on representation made to the Operational Creditor, the Operational Creditor failed to accept the fault in supplying the defective material due to which Corporate Debtor filed a Civil Suit vide OS No.487 of 2016 for damages against the Operational Creditor and the same is pending on the file of Additional Chief Judge, City Civil Court at Hyderabad, which was dismissed for default on account of non-representation. An application for restoration was already filed and the same is pending in the court. As the said suit was initiated by the Corporate Debtor before filing of the present Company Petition, as such there is a dispute between the parties and the present Company Petition has to be dismissed on this ground alone.
- ix. It is denied that the Operational Creditor supplied Mild Steel Billets to the Corporate Debtor to the tune of Rs.1,77,15,636/-. It is averred that the Operational Creditor is due and payable a sum of Rs.57,50,785/- to the Corporate Debtor due to loss faced by the Corporate Debtor because of defective material supplied by the Operational Creditor and the dispute is pending before the X Additional Chief Judge, City Civil Court, Hyderabad and the Operational Creditor has not filed any counter in the matter. This clearly establish the dispute between the parties, as such, the claim of the Operational Creditor is not maintainable and liable to be rejected.
- x. It is averred that when the Corporate Debtor is not liable to pay principal amount, the question of interest much less the interest @ 18% per annum does not arise. Further, it is also averred that the Corporate Debtor has never accepted any interest payment at any point of time.
- xi. It is averred that the Operational Creditor filed CP 186/2006 before the Hon'ble High Court of Telangana is not within the knowledge of this Corporate Debtor, as such, the same is denied for want of





Date of Order: 16.11.2021

knowledge. Further, the Operational Creditor has failed to file any documentary evidence before this Tribunal.

- xii. It is averred that the allegation of the Operational Creditor that as a counter blast to the proceedings under Section 138 of Negotiable Instruments Act and the winding up petition before the Hon'ble High Court, the Corporate Debtor has filed a Civil Suit vide OS No.487/2016 on the file of X Addl. Chief Judge, City Civil Court at Hyderabad for recovery of damages is totally false and baseless. It is averred that the Operational Creditor stated in the affidavit that notices were not issued to the Corporate Debtor in winding up petition before the Hon'ble High Court and contrary to the same also said in the para 10 that the counter blast to the winding up petition the Corporate Debtor has filed the suit OS 487/2016 on the file of X Additional Chief Judge, City Civil Court, Hyderabad.
- xiii. It is denied that the Civil Suit vide OS No.487/2016 is based on false and baseless grounds. In fact, the matter is sub-judice before the X Addl. Chief Judge, City Civil Court at Hyderabad, as such, it is not proper on the part of the Operational Creditor to say that the said suit is false and baseless pending disposal of the suit and the same shall amounts to contempt of court.
- xiv. It is totally false to say that the suit OS 487/2016 is filed only to create dispute before this Hon'ble Court. The Operational Creditor filed a suit against the Corporate Debtor under Commercial Court vide COS No.245/2017 before the XXIV Addl. Chief Judge, City Civil Court at Hyderabad, for a sum of Rs.2,28,44,310/-, which came to the knowledge of the Corporate Debtor only upon the receipt of the present application. It is averred that at one time the Operational Creditor has filed a winding up petition against the Corporate Debtor stating no dispute with regard to the outstanding amount and on the other hand pending the winding up petition filed suit for recovery of



Date of Order: 16.11.2021

the amount of Rs.2,28,44,310/- which clearly establish ambiguity of the Outstanding amount. It is also averred that the Operational Creditor has filed the present application stating that the outstanding amount as Rs.1,77,15,636/- which itself clearly establish that there is a dispute with regard to debt by the Corporate Debtor to the Operational Creditor as such the application of the Operational Creditor is liable to be dismissed on this ground alone. It is averred that in the present case, the Operational Creditor has used this Hon'ble Tribunal as a tool for recovery of monies and such this application is liable to be dismissed with heavy cost on the Operational Creditor for wasting the precious time of the Hon'ble Tribunal and creating multiplicity of disputes.

- xv. It is averred that the present case before this Hon'ble Tribunal is not maintainable and liable to be dismissed. It is also averred that when the civil suits are pending between the parties with regard to claim of amount by both the parties, filed by both of them apart from the matter under proceedings of 138 of N.I.Act, would clearly establish a dispute between the parties as such the case before this Hon'ble Tribunal is liable to be closed on the said ground alone.
4. The averments of the Rejoinder dated 06.12.2019 filed by the Petitioner / Operational Creditor in brief are described hereunder:
- i. In reply to para 4 of the counter that this Operational Creditor has not issued any notice under Section 8 of IBC is totally incorrect. It is averred that a notice demanding the amount due have already been issued by the applicant company to the respondent on 13.04.2016 under Section 434 of the Companies Act which has been acknowledged by the respondent and the respondent has also issued a reply notice dated 11.05.2016 by M/s. Gogineni Krupachand, Advocate, which are **shown at page nos.191 to 198 of the Company Application CP No.186 of 2016.**



Date of Order: 16.11.2021

- ii. It is false and baseless to state that the petitioner has not followed the provisions contained under Section 8 of Insolvency and Bankruptcy Code, 2016.
- iii. It is false and baseless to state that the Corporate Debtor has addressed to the Operational Creditor about the supply of poor quality standard and also dispatched spurious and poor standard material which have been brought to the notice of the Operational Creditor from time to time in writing and demanding the rectification and the Operational Creditor promised to take back the said inferior quality material.
- iv. It is averred that O.S.No.487/2016 filed by the Corporate Debtor before the X Addl. Chief Judge, City Civil Court, Hyderabad has already been dismissed. It is denied that the said suit has been filed before filing of the present company petition by the Corporate Debtor.
- v. It is denied that the Operational Creditor is due and liable to pay any amount to the Corporate Debtor and that the said dispute is pending before the X Addl. Chief Judge, City Civil Court, Hyderabad.
- vi. It is averred that the dispute which has been put up by the Corporate Debtor before this Hon'ble Court so also in O.S.No.487/2016 is only a sham, make believe, spurious, moon shine and only to overcome the rigours of the Insolvency and Bankruptcy Code, 2016.
- vii. It is false and baseless to state that the pendency of the C.O.S.No.245/2017 before the XXIV Addl. Chief Judge, City Civil Court, Hyderabad as against the Corporate Debtor has come to the



Date of Order: 16.11.2021

knowledge of this Corporate Debtor only after the receipt of the present application.

- viii. It is false and baseless to state that the filing of the present application for lesser amount than the suit for recovery of amount as has been filed in COS 245/2017 gives the discrepancies in the claim of the present Operational Creditor. It is only presentation of the application in proper form as required under IBC Code and cannot be termed as "New filing" by any stretch of imagination and that the claim of Rs.1,77,15,636/- as has been mentioned in the present claim is only the claim which has been referred to in the Company Petition without adding any interest.
- ix. It is averred that providing the statement of the case pending cannot be taken to as dispute with respect to the outstanding amount, but according to the Judgement of the Hon'ble Supreme Court reported in **Mobilox Innovations Private Limited**, this Tribunal needs to take into consideration "whether the dispute is a spurious one or infact a real dispute".
- x. It is false and baseless to state that the Corporate Debtor is running its business and is also paying all other dues to its creditors and that the financial health of the Corporate Debtor is also in good condition.
5. On 26.02.2021, the Operational Creditor filed an IA 79/2021 under Section 60(5) of I&B Code, 2016, r/w Section 8, 11 & 32 of NCLT Rules, 2016 for seeking to receive the documents annexed with the list by condoning the delay, if any, in the interest of justice by enclosing a copy of the notice under Form-3, dated 13.03.2019, and reply notice dated 22.03.2019 issued by the Corporate Debtor, which were could not be filed as the same were misplaced in files.



Date of Order: 16.11.2021

6. In response to the IA 79/2021, the Corporate Debtor had filed counter on 24.03.2021 stating that the Operational Creditor has wantedly never filed the documents viz. Form-3 notice and its reply before the Hon'ble Tribunal as the Operational Creditor only to prolong and drag on the matter before the Hon'ble Tribunal. It is also averred that the Operational Creditor is very much well aware that there is a dispute between the parties and the same is also pending before the Civil Court at Hyderabad.
7. The averments of the Additional Counter dated 16.04.2021 filed by the Respondent/Corporate Debtor in brief are described hereunder:
 - i. It is averred that notice under Form-3, dated 13.03.2019 and reply dated 22.03.2019 by the Corporate Debtor, which were filed at the stage of arguments by the Operational Creditor. These documents cannot be relied upon as the said documents are never pleaded in the pleadings of the Operational Creditor as such they cannot be looked into.
 - ii. It is averred that the present Company Petition was earlier filed before the Hon'ble High Court for the State of Telangana at Hyderabad vide CP No.186 of 2016. However, after notification dated 07.12.2016, the said Company Petition was transferred from the Hon'ble High Court to before this Hon'ble Tribunal as per Order dated 07.06.2018 as such the present notice dated 13.03.2019 being issued by him under earlier Companies Act, 1956, giving a statutory notice period of 21 days. Therefore, this notice does not give any stand to the Operational Creditor. It is also averred that the Operational Creditor has never issued any notice under Section 434 of Companies Act, 1956 to the Corporate Debtor and as such the present transfer company petition is liable to be dismissed.



Date of Order: 16.11.2021

- iii. It is averred that even Corporate Debtor has issued a reply to the notice in Form-3 to the Operational Creditor on 22.03.2019 wherein the Corporate Debtor pleaded that they have not received the notice in the required format and the Operational Creditor has failed to give their list of documents as mentioned in Column-7 of the said notice i.e. tax invoice, ledger account and MOU and the same is never denied by the Operational Creditor. All these papers run into more than 40 pages and if the said documents would have been sent alongwith the notice dated 13.03.2019, it would have been weighed around 160 to 250 gms. It is also averred that upon perusal of RPAD receipt filed by the Operational Creditor alongwith receipt of documents petition shows the weight of 20 gms and made payment of Rs.25/- for RPAD. As such, the very basis of initiative of this application through Form-3 notice which is not as per the prescribed format and condition as laid down under Section 8 of the IBC, 2016 is bad in law and as such the present application is liable to be dismissed at threshold only.
- iv. It is averred that in the reply notice the Corporate Debtor denied the execution of MOU as the same was under coercion and threat by the Operational Creditor due to which the Corporate Debtor was forced to issue blank cheques against which Section 138 complaint under Negotiable Instrument Act has been filed which is pending adjudication before the respective court as such the same cannot be looked into and the same incidents and past conduct would show that there exist disputes between the Corporate Debtor and the Operational Creditor and the present CP is not maintainable.
8. We have gone through the records submitted by the Operational Creditor as well as the Corporate Debtor. This case was already filed in the Hon'ble High Court in the year 2016 and the same has been transferred to this Tribunal. It is the case of the Operational Creditor that they have supplied goods for Rs.1,77,55,636/- and the Corporate Debtor did not pay the sale consideration of the goods purchased.



Date of Order: 16.11.2021

After several efforts for recovery of the dues, the Corporate Debtor has entered into a Memorandum of Understanding (MOU) wherein the Corporate Debtor has agreed to pay the due amount on or before 29.02.2016. It is also brought to our notice by the Counsel for Operational Creditor that the Corporate Debtor has also issued cheques towards payment of amount due with a promise to undertake to honour the said cheques as and when presented. However, the Corporate Debtor has not honoured his commitment and the cheques when presented were dishonoured for want of sufficient funds.

9. The Operational Creditor has also submitted the tax invoices to show the proof of supply of goods and also detailed ledger account maintained by him. As per the MOU entered into between the parties, the Corporate Debtor have admitted the due and default and agreed to pay an amount of Rs.1,77,55,636/- to the Operational Creditor. It is the case of the Operational Creditor that for the first time after receipt of demand notice in Form-3, the Corporate Debtor has taken the defence that the quality of goods supplied by the Operational Creditor were not upto the standard and of bad quality. The Operational Creditor also contended that there is no dispute whatsoever raised prior to the filing of the petition with respect to the quality and quantity of the material purchased and the dispute raised by the Corporate Debtor is only a moon shine and to escape the liability and hence not maintainable. In support of his contentions, the Operational Creditor has relied on the following judgements:

1. Innovative Industries Ltd. vs. ICICI Bank and Another 2018(1) (SCC) 407 (para 30)
2. Mobilox Innovations Private Limited vs. Kirusa Software Pvt. Ltd. 2018(1) SCC 353 (paras 27, 33, 37, 38, 51, 56)



Date of Order: 16.11.2021

10. The Applicant has also filed IA No.79/2021 submitting Form-3 Demand Notice issued by the Operational Creditor. It is also mentioned that wherein a certificate of Memorandum was also enclosed to Form-3 which says that no dispute was raised in relation to the relevant operational debt filed by the Corporate Debtor at any point of time and pleaded for admission of the application and to initiate the CIRP proceedings against the Corporate Debtor.
11. However, the Corporate Debtor while admitting, the Operational Creditor has supplied material to the Corporate Debtor and contended that the material supplied by the Operational Creditor were totally defective and the same was informed to the Operational Creditor but Operational Creditor failed to come forward and rectify the same. He also countered statement that the Corporate Debtor has agreed to pay 18% interest to the Operational Creditor on the Invoice amount if the Corporate Debtor failed to make the payment on its due date. He further contended that when the material supplied by the Operational Creditor is itself defective the question of paying interest does not arise.
12. The Corporate Debtor has further contended that the Operational Creditor has approached this Hon'ble Court as a tool of recovery of amount as such the present application is liable to be dismissed on this ground.
13. The Corporate Debtor has also contended that the Operational Creditor never discharged the obligation and not adhered to the grievance of the Corporate Debtor in the entire transaction. The Corporate Debtor addressed to the Operational Creditor that their supplies are not upto the quality standards and also dispatched spurious and poor standard material to the Corporate Debtor and brought the fact to the Operational Creditor's notice and knowledge several times from time to time and demanded rectification. However, the Operational Creditor has never rectified the same. As regards to the contention of the Operational



Date of Order: 16.11.2021

Creditor that the Corporate Debtor has issued cheques in lieu of the debt due is denied by the Corporate Debtor and further contended that the blank cheques were given as a security at the time of supply of material which was mischievously presented by the Operational Creditor. Further, on dishonour of cheques, the Operational Creditor filed CC No.88/2016 before the Hon'ble V Special Magistrate, Hyderabad. He also informed to the Tribunal that the Corporate Debtor is contesting this case and the matter is still pending for consideration.

14. The Corporate Debtor further contended that he filed a Civil Suit vide OS No.487/2016 for damages against the Operational Creditor for supply of the defective material and the same is pending before the X Additional Chief Judge, City Civil Court at Hyderabad. The Counsel for Operational Creditor informed to the Tribunal that the case was dismissed for default of non-prosecution. However, the Counsel for Corporate Debtor contended that they have filed an application for restoration of the case and the same is pending in the court. As such, he claimed that there is a pre-existing dispute in regard to the quality of the material and on this ground the application filed by the Operational Creditor has to be dismissed. As regards the MOU, it is denied that the Corporate Debtor executed the MOU and also questioned the interest @ 18% per annum which he never agreed for the same. The Counsel for Corporate Debtor finally submitted that as there exists a pre-existing dispute, the application filed by the Operational Creditor has to be dismissed.
15. We have thoroughly verified the records placed before us and also submissions made by the Learned Counsels for Operational Creditor as well as the Corporate Debtor. The MOU that has been executed by the Corporate Debtor and we also found that the cheques which were given as per MOU were dishonoured. Taking into consideration of the fact that the cheques which were given as part of the MOU were also not honoured by the Corporate Debtor, the contention of the Corporate Debtor does not hold any water that the MOU was taken under coercion. Further, the



Date of Order: 16.11.2021

cheques were given as a security is also not convincing. It clearly demonstrates that there exists a debt which was substantiated by the MOU as well as the cheques issued as per the MOU for repayment of the debt. The default of debt was also amply proved by the Operational Creditor.

16. In addition, the Operational Creditor has also mentioned in his Form-3 Demand Notice that he has filed the details of debt with the Information Utility as provided under IBC. However, the same was not refuted by the Corporate Debtor which clearly demonstrates that the Corporate Debtor has not denied the details of debt filed by the Operational Creditor within the Information Utility which also further weakens the case of the Corporate Debtor.
17. In the light of the above findings, we are of the firm view that the Operational Creditor has a strong case and the Corporate Debtor has to be admitted to CIRP as prayed for by the Operational Creditor. Accordingly, the instant application filed under Section 9 of the I&B Code, 2016 is hereby admitted.
18. The Operational Creditor has not named anyone as Interim Resolution Professional (IRP) and has requested this Adjudicating Authority to appoint one for the Insolvency Resolution Professionals as IRP. The Insolvency and Bankruptcy Board of India (IBBI) has recommended a panel of Insolvency Professionals for appointment as Insolvency Resolution Professional for the period from 1st July, 2021 to 31st December, 2021 in compliance with Section 16(3)(a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints Mr. Maruti Venkata Subba Rao Poluri having Registration No. IBBI/IPA-002/IP-N00924/2019-2020/13001, e-mail: csubbarao@gmail.com as Interim Resolution Professional. As per the IBBI website, his AFA is valid upto 07.06.2022. The aforesaid IRP has no disciplinary proceedings pending against him. He shall file his written communication and all relevant



Date of Order: 16.11.2021

papers immediately before the Registrar of this Adjudicating Authority but not later than three days.


19. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with the following directions: -

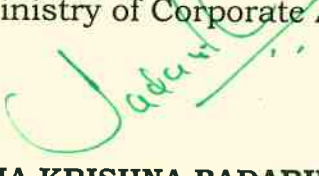
- i. The Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor;
- ii. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.
- iii. 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.



Date of Order: 16.11.2021

- iv. 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.
- v. 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 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- vi. The Petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with the Interim Resolution Professional within three days from the date of this Order to meet out the expenses and his fee to perform the functions assigned to him in accordance with regulation 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The initial expenditure incurred by IRP shall, however, be subject to the approval by the Committee of Creditors, in its first meeting.
- vii. That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.
- viii. Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


Dr. N.V.RAMA KRISHNA BADARINATH
MEMBER (JUDICIAL)

Syamala