

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 17.11.2021 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No. 58/9/AMR/2021
NAME OF THE COMPANY	East Godavari Breweries Pvt Ltd
NAME OF THE PETITIONER(S)	Srinivasa Rao
NAME OF THE RESPONDENT(S)	East Godavari Breweries Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

<small>Ries</small>	Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

<small>Ries</small>	Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

CP (IB) No.58/9/AMR/2021 is admitted, vide separate orders.

Telaprolu

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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CP (IB) No. 58/9/AMR/2021

**In the matter of a Petition under Section 9 of the Insolvency and
Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and
Bankruptcy (Application to Adjudicating Authority) Rules, 2016
AND**

**In the matter of
M/s. EAST GODAVARI BREWERIES PRIVATE LIMITED**

Between:

Mr.S.Srinivasa Rao,
Proprietor of M/s.Vencon Constructions,
Office at Flat No.503, Sita Residency,
Ramnagar, Visakhapatnam,
Andhra Pradesh - 530002

... Operational Creditor

AND

M/s. East Godavari Breweries Private Limited,
5-172C, Thimmapuram, Near Tata Motors,
Kakinada, Andhra Pradesh-533005

... Corporate Debtor

Date of Order: 17.11.2021

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Operational Creditor : Mr. Vimal Varma Vasireddy, Advocate.
For Corporate Debtor : Mr.G.Sai Prasen, Advocate.

ORDER

1. This Petition is filed by Mr.S.Srinivasa Rao, Proprietor of M/s.Vencon Constructions, (“hereinafter referred to as Operational Creditor”) seeking initiation of Corporate Insolvency Resolution Process in respect of M/s. East Godavari Breweries Private Limited (“hereinafter referred to as Corporate Debtor”) alleging that the

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Corporate Debtor committed default in making payment of Rs.3,69,45,074/-which includes interest @24% per anum, towards invoices raised against the services. Hence petition under Section 9 of Insolvency and Bankruptcy Code, 2016 (referred to as "Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Insolvency Resolution Professional (IRP) as prescribed under the Code and Rules thereon.

2. The learned Counsel for the Operational Creditor submits that Petitioner is engaged in the business of constructions, supplying and integrating construction materials, land development and under taking civil works and the Corporate Debtor is a Private Limited Company incorporated under Companies Act on 23.01.2015 and engaged in the business of manufacturing beverages. The Corporate Debtor engaged the services of Operational Creditor to set up and undertake the construction of the brewery plant, development of land, supply and investigation of boilers and utilities in the proposed brewery plant by virtue of work order dated 07.02.2015. The said work order was for two years, ending by 06.02.2017.
3. In accordance with Clause-9 of the Work Order, the Corporate Debtor paid to the Operational Creditor, an amount equivalent to 20 % of the work order amount is Rs.12,94,00,000/- as mobilization advance on 09.02.2015, 10.02.2015, 12.02.2015 and 18.02.2015, towards commencing the construction works in respect of the plant.

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4. The Operational Creditor thereafter appointed sub-contractors for carrying out construction works in respect of the Plant and utilized the mobilization advance received from Corporate Debtor towards clearing the invoices raised by sub-contractors. The work order dated 07.02.2015 was further extended through an extension letter dated 07.02.2017 up to 06.02.2019. The Corporate Debtor in the said work order, acknowledged and admitted that invoices amounting to Rs.3.69 Crore were outstanding and had to be cleared.
5. The Operational Creditor raised two invoices amounting to Rs.3,69,45,074/- for land development works undertaken by the Operational Creditor. The Operational Creditor addressed an email to the Corporate Debtor requesting to clear the outstanding amount. The corporate Debtor responded by email dated 27.11.201, stating that they would release the payment shortly. The Corporate Debtor intimated that they are terminating the work order as it cannot continue setting up the Plant and explicitly stated that it would settle the amount due and outstanding to the Operational Creditor.
6. The Operational Creditor issued demand notice dated 11.08.2021 to the Corporate Debtor. But the Corporate Debtor did not issue any reply to the said demand notice. The Corporate Debtor has admitted the debt in its counter. On the basis of the above submissions, the learned counsel appearing for the Operational Creditor seeks this Tribunal to admit the Company Petition.
7. The Counsel appearing for the Corporate Debtor does not deny the fact that the amount claimed by the Operational Creditor is due but his contention is that the Corporate Debtor invested substantial amounts and engaged multiple constructors and consultants

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including the Operational Creditor to ensure that the Plant was set up. However, due to sudden and illegal termination of the Brewing Agreement by ABI, the Corporate Debtor suffered huge losses and was rendered unable to honour any payments due to its creditors, including Operational Creditor, which was only made worse by the Covid-19 and lockdown situation. But the said contention does not come as a ground to reject the Petition which is filed to seeking to initiate the CIRP, since there is a clear admission of debt.

8. Hence I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Operational Creditor has suggested one name i.e., Mr. Pradeep Kumar Sravanam (**IBBI/IPA-003/IP-N00100/2017-2018/11009**) as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

- i. **Mr. Pradeep Kumar Sravanam (IBBI/IPA-003/IP-N00100/2017-2018/11009)**, having office at 6-40, Plot No: 101, Suprabhat Township, Venture-2, Kachavani, West Marredpally, Hyderabad-500088; e-mail: 12283kumar@icmaim.in; Mobile: **8008882331** is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website.
- ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of

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the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.

- iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.
- v. The Registry shall communicate the order to the Operational Creditor and the Corporate Debtor forthwith.
- vi. The Operational Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.

T. Raju

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

Swamy Naidu