BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

C.P. (I.B) No. 601/9/NCLT/AHM/2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.02.2021

Name of the Company: B-Solutions Management Consultants
V/s
WSH Pvt Ltd

Section: 9 of the Insolvency and Bankruptcy Code, 2016

ORDER

There are few aspects which have been noticed *suo-moto* as well as necessary correction are being carried out.

The order was passed and uploaded. The signatures of both the members are there on the last page of order as well as on the attendance sheet. However, the signatures of Member (Judicial) were not put on the inner pages inadvertently.

Further, there is a technical error in Clause set wherein, the sum of Rs. 25,000/- has been mentioned in numerical form and in the words, the amount is stated as "Fifty Thousand". The Bench had ordered for the payment of Rs. 25,000/- considering the amount of default in order.

This is also corrected. The Registry is directed to upload the amended order.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 1st day of February, 2021

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BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH at AHMEDABAD
COURT-1

[CP (IB) No.601/9/NCLT/AHM/2019]

<u>In the matter of:</u>

M/s. B-Solutions Management Consultants
1, Krishna Park Soc.Near Surya Nagar,
Behind Vaishali Cinema,
Nadiad, Gujarat-387002

... Operational Creditor

V/s.

M/s. WSH Private Limited
Having its registered office at
701 Yash Aqua,7th Floor
Near Vijay Cross Road,
Navranpura
Ahmedabad, Gujarat- 380013

... Corporate Debtor

Order Reserved on: 18th January, 2021
Order Pronounced on: 27th January, 2021

Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)

<u>Appearance:</u>
Ld. Counsel, Mr. Mrugesh Jani appeared for the Operational Creditor.

Ld. PCS, Mr. Richi M Shah appeared for the Corporate Debtor.

AMENDED ORDER

[Per: Virendra Kumar Gupta, Member (Technical)]

1. Mr. Dhaval Kunjbihari Mandovara, Proprietor of M/s. B-Solutions Management Consultants filed this Petition under section 9 of the Insolvency and Bankruptcy Code,2016 (hereinafter referred to as the "Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 (hereinafter referred to as **"the Rules"**) as Operational Creditors, against M/s WSH Private Limited, Corporate Debtor to initiate the Corporate Insolvency Resolution Process (**"CIRP"**) of the Corporate Debtor.

2. The Operational Creditor was provided the business contract services to the Corporate Debtor. It has submitted that the corporate debtor is indebted a total sum of Rs. 6,25,444/- to the operational creditor towards the services provided during the period from 30.04.2018 to 29.03.2019. As per the details annexed on page No. 8 to 26 of the petition. The Operational Creditor further submitted that the terms of payment are immediate from the date of respective invoices, henre, the first date of invoice is the date of default (i.e. 30.04.2018) as per the details annexed on page no.26 of the petition.

3. In support of his claim, the operational creditor has annexed the copies of documents such as a copy of invoices under which some amounts are due and outstanding, demand notice in Form.3 delivered on 20.06.2019 along with delivery proof and track report, compuntation of amount of debt fell due and dates of default, copy of Bank statement of Operational Creditor, an affidavit under section 9(3)(b) of the Code.

4. The Operational Creditor also filed on record, affidavit stating that in-spite of receipt of demand notice under Section 8 of the Code, the Corporate Debtor did not pay the debt nor replied notice pointing to any dispute and thereby complied with the provision of Section 9(3)(b) and 9(3)(c) of the Code.

5. The Corporate Debtor has filed an affidavit in reply dated 21.07.2019 and admitted that the Operational Creditor was providing services since April 2018 and also admitted that it has paid money in part payments to the Operational Creditor. Further stated by the Corporate Debtor that due to the introduction of Demonetisation and GST, the company is passing through severe liquidity crunch and it is unable to make payments to its creditors.

6. We heard the Ld. Counsels for both sides and perused the documents annexed to the Application/reply submitted by the parties.

7. On perusal of records, it is found that the application was filed on 29.07.2019. The invoices were raised from 30.04.2018 to 29.03.2019. The demand notice delivered by the Operational Creditor under Section 8 of the Code on 20.06.2019 has been served upon the Corporate Debtor. The application filed by the Operational Creditor is within a limitation period. The Corporate Debtor has admitted the debt. The application is complete and defect-free. The amount is due and payable both in fact and Law. A default has occurred due to non-payment thereof.

8. The Operational Creditor did not propose the name of any Resolution Professional for the appointment of IRP and let the matter discretion of this authority. As given above and based on the material available on record, it is evident that the Corporate Debtor has committed default in payment of and, therefore, it is a fit case to initiate CIRP. Hence, we admit the Corporate Debtor in the CIRP under Section 9(5)(1) of the I.B. Code, 2016 by the following order:

ORDER

I. The Corporate Debtor, **M/s. WSH Private Limited.** is admitted in the Corporate Insolvency Resolution Process under Section 9 of the Insolvency and

Bankruptcy Code, 2016.

II. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

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;

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.

III. The order of moratorium shall affect the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

IV. We hereby appoint**, Mr. Suhas Dinkar Bhattbhatt, having registration no.IBBI/IPA-002/IP-N00571/2017-2018/11738, Email ID:cssuhasb@gmail.com, Mobile No. 9824250787 (Ahmedabad, Gujarat)** to act as an IRP under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:

V. The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the

Corporate Debtor, its Promoter, or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

VI. This Adjudicating Authority directs the IRP to make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.

VII. It is further directed that the supply of goods/services to the Corporate Debtor Company, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.

VIII. The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** to the IRP within two weeks from the date of this order for smooth conduct of Corporate Insolvency Resolution Process ("CIRP") and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

IX. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and the Interim Resolution Professional, and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order.

X. Accordingly, CP (IB) No.601/9/NCLT/AHM/2019 stands admitted.

(Virendra Kumar Gupta)
Member (Technical)

(Madan B. Gosavi)
Member (Judicial)

R.S.