

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

CP (IB) No.942/MB-IV/2021

Under Section 9 of the IBC, 2016

In the matter of

M/S BHAWANI ENTERPRISES

...Operational Creditor

v/s.

**M/s. LOGICASH SOLUTIONS
PVT.LTD**

[CIN: U74990MH2009PTC197031]

...Corporate Debtor

Order Delivered on: 07.12.2023

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Operational Creditor:

Mr. Rishi Ashok i/b Bekay Legal,
Ld. Counsel.

For the Corporate Debtor:

Mr. Aditya N. Raut i/b Desai Desai
Carrinjee & Mulla, Ld. Counsel.

ORDER

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by M/S BHAWANI ENTERPRISES (“the Operational Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) in the matter of M/s. LOGICASH SOLUTIONS PVT.LTD, the Corporate Debtor.

1.1. The Company Petition is filed on 11.08.2021 claiming that an amount of Rs. 1,64,16,651/- is due and payable by the Corporate Debtor as on 30.06.2021(Principal Amount Rs. 1,26,61,928/- alongwith Interest @18% p.a. Rs. 37,54,723/-). The date of default as specified in Part IV of the petition is 02.06.2019.

Submissions of the Operational Creditor:

2. The Operational Creditor entered into an agreement vide dated 09.04.2014 for vehicle hire and maintenance with Corporate Debtor (hereinafter referred as “the said agreement”) for providing commercial vehicles on hire and fleet management service in the state of Madhya Pradesh. In the said agreement Transtreasure Services (India) Pvt. Ltd. (for short “TSIPL”) is running under its brand name ‘Logicash’ (Logicash Solutions Pvt.Ltd.) and hereby, the names of the company are used interchangeably.

2.1. The Operational Creditor according to the terms and conditions of the said agreement and as per the instructions of Corporate Debtor had provided the services from time to time. The Purchase Orders were issued in the year 2019 by the Corporate Debtor and alongwith the receipt of detailed services, the invoices from 18.02.2019 to 26.12.2019 were raised by the Petitioner and the same were received by the Corporate Debtor.

Also, the Satisfactory Service Certificate dated 15.03.2019 was issued by the Corporate Debtor to Operational Creditor.

2.2. Operational Creditor had raised Invoices amounting to Rs. 1,60,38,060/- (One Crore Sixty Lakhs Thirty-Eight Thousand and Sixty only) on the Corporate Debtor. The Corporate Debtor had paid a sum of Rs. 33,76,132/- to the Operational Creditor and the principal of Rs. 1,64,16,651/- (Rupees One Crore Sixty-Four Lakhs Sixteen Thousand Six Hundred and Fifty-One Only) is payable by the Corporate Debtor.

2.3. The Corporate Debtor vide letter dated 24.08.2020 had informed the Operational Creditor that Mr. Vipin Jain, Managing Director and CEO of the Corporate Debtor had abandoned his responsibilities and left the Company abruptly. It was submitted by the Operational Creditor that in the said letter, it was informed by the Corporate Debtor that a task force would be set up to look into the accounts of the Operational Creditor.

2.4. The Operational Creditor on various occasions sent emails to the Corporate Debtor demanding the invoice payment. In response the Corporate Debtor vide email dated 22.09.2020 acknowledged the payment of outstanding dues and committed to pay dues. In the aforesaid mail the Corporate Debtor has stated that, **“We reiterate that we are committed in making our best efforts in clearing all the legitimate dues of the Company in a phased but time bound manner at the earliest”**

2.5. The Operational Creditor issued Legal Notice dated 14.07.2020 through their Advocate on the Corporate Debtor seeking outstanding dues of Rs. 1,26,61,928/- alongwith Interest @12% p.a., yet the payment was not made to the Operational Creditor. Thereafter, the Operational Creditor

issued Demand Notice dated 28.04.2021 in which it is stated that after several follow-ups with the Corporate Debtor, some amount towards the invoices for the month of November-December 2019 were released by the Corporate Debtor and that after the receipt of a letter dated 24.08.2020 from Corporate Debtor, all the details of the outstanding amount were furnished by the Operational Creditor vide email dated 03.09.2020 to the Corporate Debtor and the same was not disputed by the Corporate Debtor.

Submissions of the Operational Creditor through its Affidavit in Rejoinder dated 28.06.2023:

- a. The invoices raised by the petitioner were served to the Corporate Debtor which was signed by the then authorised signatory named Mr. Manish Jain. Further, vide email dated 03.09.2020 all the invoices and ledger were submitted to the Task Force established by the new management of Corporate Debtor and the same was accepted without any objections.
- b. The Operational Creditor further stated that the Corporate Debtor never replied to the said Legal notice or to the said demand notice under the code. Hence, no dispute was raised by the Corporate Debtor on the deficiency of service.
- c. The Corporate Debtor undertook to pay outstanding dues of TSIPL, which is clearly visible from the ledger as the Corporate Debtor affixed its stamp on the ledger account of TSIPL.

Findings

3. This bench has perused the documents and pleadings available on record and considered the arguments of both the sides.

3.1. This bench observes that, the Operational Creditor in Part IV of the application has specified date of default 02.06.20219 and the present petition filed on 11.08.2021 is within limitation period. Therefore, this Tribunal has jurisdiction to adjudicate the Company Petition filed by the Operational Creditor.

3.2. As per the material on record this Bench finds that the Corporate Debtor was directed to file their Affidavit in Reply pursuant to order dated 08.08.2022. However, there is no Affidavit in reply filed on record. Furthermore, this Bench vide order dated 03.07.2023 directed the Corporate Debtor to file an Affidavit to confirm that the Purchase order no.171, under which services are claimed to have been provided by the Operational Creditor, is not the purchase order under which services were provided by the Operational Creditor. The Corporate Debtor sought two weeks' time to comply with the aforesaid order which was granted but, on the next date he sought for more time to comply with the same. But, no further liberty was granted by the Bench.

3.3. Moreover, after perusal of the order dated 11.10.2023, it is observed that the Corporate Debtor submitted that some settlement talks were going on between both the parties and one week's time was sought to report the same, failing to which it was made clear that the present matter will be decided on merits. Thereafter, several adjournments were sought by the learned Counsels due to which last opportunity was granted to the

Operational Creditor vide order dated 31.10.2023 and the case was heard on merits on 09.11.2023.

3.4. As per the material on record this Bench finds that, the Corporate Debtor had approached Operational Creditor for providing commercial vehicles on hire and fleet management services and the amount claimed in default is due on account of such services provided by the Operational Creditor. The Operational Creditor has placed on record email correspondence dated 22.09.2020 and 03.09.2020 which clearly shows outstanding Liability and also admission of liability on the part of Corporate Debtor.

3.5. On perusal of Tax Invoices, the bench observes that the invoices have stipulated for interest @18% p.a. for non-payment of dues on or before the due date. It is noted that the total principal debt amount of Rs. 1,26,61,928/- alongwith Interest @ 18% p.a. Rs. 37,54,723/- the total debt makes total outstanding as Rs. 1,64,16,651/-. Thus, the total debt outstanding of Operational Creditor is above Rs. 1 crore as per requirement of Section 4 IBC read with notification No. S.O 1205 (E) dated 24.3.2020, and meets the criteria of Rs. 1 crore as per Section 4 of IBC and Application is therefore maintainable in present case.

4. This Bench is of the view that, on further perusal of the documents submitted by the Operational Creditor, it is clear that Operational Debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we find that it is a fit case for initiation of CIRP against the Corporate Debtor, and that the petition is filed within the limitation period. This Tribunal has jurisdiction to adjudicate the

Company Petition filed by the Operational Creditor and that there is a Debt due & payable by the Corporate Debtor. Since, the debt and default exist and no pre-existing dispute has been brought to our notice, it is a fit case for admission u/9 of IBC, 2016.

5. In view of the above, we find that the present case deserves to be admitted under Section 9 of the Insolvency and Bankruptcy Code, 2016.

ORDER

6. The petition bearing CP (IB) No.942/MB-IV/2021 filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by M/S BHAWANI ENTERPRISES (“the Operational Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) in the matter of M/s. LOGICASH SOLUTIONS PVT.LTD., the Corporate Debtor is **Admitted**.

- 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 Operational 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
- a. such transactions as may be notified by the Central Government in consultation with any Operational sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.
- 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. The bench hereby appoints **MS. MRUDULA CLETUS BRODIE**, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having registration number **IBBI/IPA-001/IP-P-01702/2019-2020/12681** and Email:

camrudulkejdiwal@gmail.com is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.

- VII. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- VIII. The Operational Creditor shall deposit a sum of Rs.5,00,000/- (Rupees Five lakh only) with the IRP to meet the initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims. The amount so deposited shall be interim finance and paid back to the applicant on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC).
- IX. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate

Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)