

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-928/ND/2018

(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)

IN THE MATTER OF:

M/s PREMIER TECH AQUA SYSTEMS PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

M/s MIRA GREEN TECH PRIVATE LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 21.08.2019

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

For the Applicant: Mr., Adv.

For the Respondent:

MEMO OF PARTIES

M/s PREMIER TECH AQUA SYSTEMS PRIVATE LIMITED

Having its registered office at:

A-21, III Floor,
Green Park (Main),
New Delhi-110016

...Applicant/Operational Creditor

VERSUS

M/s MIRA GREEN TECH PRIVATE LIMITED

Having its registered office at:

B-267A, First Floor,
Greater Kailash Part-I,
New Delhi-110048

...Respondent/ Corporate Debtor

ORDER

SHRI HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/S Premier Tech

Aqua Systems Private Limited (for brevity 'Applicant') through its director Mr. Mohit Vijay Malani authorizing him to file present application vide Board resolution dated 12.01.2019, with a prayer to initiate the Corporate Insolvency process against M/S Mira Green Tech Private Limited (for brevity 'Respondent').

2. The Applicant, the Operational Creditor namely M/S Premier Tech Aqua Systems Private Limited is a company incorporated on 03.08.2012 under the provisions of Companies Act, 1956 with CIN No. U299243DL2012PTC239814, having its registered office at A-21, III Floor, Green Park (Main), New Delhi-110016.
3. The Respondent, the Corporate Debtor namely M/S Mira Green Tech Private Limited is a company incorporated on 25.07.2012 under the provisions of Companies Act, 1956 with CIN No. U93000DL2012PTC239257, having its registered office at B-267 A, First Floor, Greater Kailash Part-I, New Delhi 110048.
4. The Authorised Share Capital of the respondent company is Rs. 41,00,000/- and Paid Up Share Capital of the company is Rs.1,00,000/-as per Master Data of the company.

5. It is the case of the applicant that Respondent company had engaged the services of the operational Creditor for design, supply, erection and commission of 400 KLDSTP at Jamia University and Medical College and in this regard, subsequent to a Purchase Order dated 16.01.2015, a Work Order dated 21.01.2015 (“said work order”) was issued by the respondent to the operational creditor for an amount of Rs. 40,00,000/- (Rupees Fourty Lakhs Only) [after taxes being Rs. 40,80,000/- (Rupees Fourty Lakhs Eighty Thousand Only)].
6. The Operational Creditor carried out and completed its obligations under the said Work Order and raised the following invoices on the respondent:

S. No.	INVOICE NO.	DATE	AMOUNT
1.	TD00009	16.03.2015	Rs. 5,61,000/-
2.	TD00012	19.03.2015	Rs. 1,53,000/-
3.	TD00013	20.03.2015	Rs. 51,000/-
4.	TD00014	24.03.2015	Rs. 15,30,000/-
5.	TD00015	24.03.2015	Rs. 8,67,000/-
6.	TD00018	28.03.2015	Rs. 3,06,000/-

7.	TD00019	30.03.2015	Rs. 2,04,000/-
8.	TD00003	24.04.2015	Rs. 4,08,000/-

7. The respondent vide its certificate dated 30.01.2017 confirmed that the work awarded to the Operational Creditor had been satisfactorily completed and commissioned by the Operational Creditor. The respondent also stated that it was pleased and satisfied with the performance of the plant and with the quality of equipment and services provided by the Operational Creditor.
8. As per the information provided by the Operational Creditor, Out of the total amount of Rs. 40,80,000/- (Rupees Forty Lakhs Eighty Thousand Only), as on 24.04.2015, the respondent had only paid an amount of Rs. 32,00,000/- (Rupees Thirty Two Lakhs Only) to the Operational Creditor, leaving a balance amount of Rs. 8,80,000/- (Rupees Eight Lakhs Eighty Thousand Only) outstanding and payable by the respondent to the Operational Creditor as on 24.04.2015.
9. In spite of various requests made and reminders sent by the Operational Creditor, both telephonically as well as in writing including by emails dated 11.09.2017 and 13.09.2017,

requested the respondent to clear the outstanding dues of the Operational Creditor. The respondent vide email dated 14.09.2017 requested the Operational Creditor for time to make the outstanding payments. The Operational Creditor vide email dated 18.09.2017 sought a definitive date when the respondent would clearly the dues of the Operational Creditor. Subsequently, various emails, being 20.09.2017, 25.09.2017, 27.09.2017, 29.09.2017, 02.10.2017 and 06.10.2017, were exchanged between the Operational Creditor and the respondent.

10. As no payment was received, the Operational Creditor vide its letter dated 30.04.2018 once again requested to the respondent for release of the outstanding payment of Rs. 8,80,000/- (Rupees Eight Lakhs Eighty Thousand Only) failing which the Operational Creditor informed the respondent that it would take up the matter legally. On 21.05.2018, the respondent paid an amount of Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the Operational Creditor, leaving a balance amount of Rs. 6,30,000/- (Rupees Six Lakhs Thirty Thousand Only). The Operational Creditor by

its letters dated 25.09.2018 and 10.10.2018 requested the respondent to release the outstanding amount of Rs. 6,30,000/-, however, the respondent neither paid the balance amount nor replied to the said letters of the Operational Creditor.

11. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 31.12.2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the entire outstanding payments of Rs. 8,56,800/- (Rupees Eight Lakhs Fifty Six Thousand Eight Hundred Only) inclusive of Rs. 6,30,000/- (Rupees Six Lakhs Thirty Thousand Only) as principal amount and Rs. 2,26,800/- (Rupees Two Lakhs Twenty Six Thousand Eight Hundred Only) as interest at 18% per annum from 24.04.2015 till 23.12.2018, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.
12. Despite the demand notice sent under Section 8 of the Code, the Respondent has failed to pay the amount demanded, and has neither raised any notice of dispute nor replied to the said

notice, hence this application, seeking to unfold the process of CIRP.

13. The applicant has stated that total debt due and payable is Rs. 8,56,800/- (Rupees Eight Lakhs Fifty Six Thousand Eight Hundred Only) inclusive of Rs. 6,30,000/- (Rupees Six Lakhs Thirty Thousand Only) as principal amount and Rs. 2,26,800/- (Rupees Two Lakhs Twenty Six Thousand Eight Hundred Only) as interest at 18% per annum from 24.04.2015 till 23.12.2018..
14. This Tribunal is constrained to proceed with the matter ex-parte against the Corporate Debtor as per order dated 08.07.2019 since the Corporate Debtor has not appeared though Section 8 notice and the present application were duly served on the Respondent and proof of service is filed by the applicant. The applicant has filed an affidavit under Section 9(3)(b) stating that no notice of dispute from Corporate Debtor is received.
15. It has been observed by the tribunal that the invoices issued by the applicant are in violation of the section 12(3)(c) which clearly states that:

*“Every company shall... Get its name, address of its registered office and the **corporate Identity Number** along with telephone number, fax number, if any, e-mail and website address, if any, printed in all its business letters, bill heads, letter papers and in all its notices and other publication;”*

(Emphasis Supplied)

16. As, the invoices issued by the operational creditor do not contain the Corporate Identity Number of the company the ROC is directed to take necessary steps as per law provided in this respect against the operational creditor.
17. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
18. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfillment of requirements under section 9(5) of the Code. Hence, the present application is admitted

16. The Applicant has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Mr. Sanjiv Kumar Arora having registration no. IBBI/IPA-001/IP-P01462/2018-2019/12390 and email address mrask@yahoo.co.in and contact number is 9899881337, as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.

17. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Respondent prohibiting proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in vogue.

18. A copy of the order shall be communicated to the Applicant as well as to the Respondent above named by the Registry.

A copy of this order shall also be communicated to the Registrar of Companies, NCT of Delhi & Haryana for necessary action as directed in Para 15 & 16 above. Further the IRP

above named be also furnished with copy of this order
forthwith by the Registry.

SHRI HEMANT KUMAR SARANGI

MEMBER (T)

DR. DEEPTI MUKESH

MEMBER (J)