

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON 01-12-2021 AT 10:30
AM THROUGH VIDEO CONFERENCE

**CP(IB) No.75/9/HDB/2020
U/s 9 of IBC, 2016**

IN THE MATTER OF:

Microcare Computers Pvt Ltd

... Operational Creditor

Vs

Parity Systems Pvt Ltd

... Corporate Debtor

CORAM:

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER
JUDICIAL**

SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER TECHNICAL

ORDER

Order pronounced in CP(IB) No.75/9/HDB/2020 vide separate sheets.

CP(IB) No.75/9/HDB/2020 is admitted.


MEMBER (T)


MEMBER (J)

Pavani

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

CP (IB) No. 75/9/HDB/2020

Under Section 9 of the Insolvency and Bankruptcy Code, 2016
Read with Section 11 of NCLT Rules, 2016

In the matter of

M/s. Microcare Computers Private Limited
Regd Office At: 105, Ratna Complex,
Behind Image Hospitals, Ameerpet,
Hyderabad- 500 073.

... Operational Creditor

AND

M/s. Parity Systems Private Limited
Regd Office At: Plot No.7,
Sainagar Colony, Wellington Road,
Picket, Secunderabad- 500 009.

... Corporate Debtor

Date of Order: 01.12.2021

Coram:

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

Appearance:

For Petitioner: Shri. V.Shiva Kumar, Counsel.

Heard on: 23.11.2021.



PER: BENCH

1. The present petition is filed by the operational creditor claiming an amount of Rs. 54,15,910/- out of which the Principle amount is Rs.35,63,098 and interest @24% per Annum amounting to Rs.18,52,812/- to be the operational debt as on 31.12.2019 Hence this petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, read with Rule 6 of Insolvency and 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 in the petition are as follows:
 - 2.1 Operational creditor is a Company duly incorporated under the Companies Act. The Company was constituted with the aims and objects of manufacturers, researchers, designers, developers , assemblers, installers, distributors, etc., and sellers of all kinds of micro-processors, microcomputer wave systems including but not limited to computers, data processors, data preparation, etc.,
 - 2.2 It is averred that corporate debtor is a customer of the operational creditor in the business. Corporate debtor approached the operational creditor to purchase computers along with accessories for huge quantity. Accordingly corporate debtor placed purchase order dated 22.11.2016 in P.O.No. PSPL_TS/MC/HP/047/2016-2017 to applicant for supply of 434 Numbers of HP 406G2 Micro Tower Desktop Intel Core i3-6100(3.7 Ghz, 3MB Cache, 2 Cores with 4 threads)/Q150 Chipset/4GB DDR4 RAM/500 GB HDD/18.4" Display Monitor/Super Multi DVD Writer/KB, Mouse/Win 10 Professional Down Gradable tow Win 7 Pro/Symantec Anti-virus latest Version/3 years warranty and agreeing to pay the amount within 30 days from the date of delivery of products.



- 2.3 It is averred that upon receipt of purchase order, operational creditor had raised Tax Invoice No. 160102562 Dated 17.12.2016 for an amount of Rs.1,75,34,033/-. Further the operational creditor had supplied the products which was acknowledged by the corporate debtor on 22.12.2016.
- 2.4 It is averred that corporate debtor upon receipt of products failed to pay the amounts within one month and upon persistent demands of operational creditor, a total of Rs.1,39,70,935/- is paid leaving a balance of Rs.35,63,098/-
- 2.5 Thereafter corporate debtor did not turn up to make the payment of balance amount of Rs.35,63,098/-. Operational creditor thus requested the corporate debtor to clear the due amount by way of phone calls, emails, and personal visits, but corporate debtor dodged the matter by saying will clear the dues. But corporate debtor had not clear the balance amount to the applicant and intentionally evaded the payment.
- 2.6 It is averred that due to non-payment of balance amounts in time, operational creditor is entitled to claim the interest @24 over the balance amount as per Tax Invoice. Thus the corporate debtor is due and liable to pay an amount of Rs.54,15,901/-.
- 2.7 Henceforth, operational creditor issued Form-3 notice under Rule 5 of the I&B Code, 2016. But the same was returned back with an endorsement as "UNCLAIMED". Subsequently Operational creditor having no option approached the Hon'ble Tribunal and prayed to admit the present petition and proceedings be initiated as per I&B Code, 2016.
3. List of documents produced by the operational creditor:
- 3.1 Copy of purchase order along with sales order dated 22.11.2016.
- 3.2 Copy of Tax Invoice dated 17.12.2016.
- 3.3 Copy of Email correspondence.
- 3.4 Original registered postal receipts dated 16.12.2019.



- 3.5 Original returned postal cover with endorsement as “UNCLAIMED” dated 18.12.2019.
- 3.6 Copy of Master Data of corporate debtor obtained from MCA.
4. Learned Counsel for operational creditor has filed written submissions dated 17.11.2021, is reiteration of what is averred in the petition.
5. Heard the Learned counsel for the operational creditor and perused the documents produced on record. As stated above the operational creditor has filed copies of various documents. In the present case it is clear that there is default in payment occurred under each of the supplies made by the operational creditor and there is failure of the corporate debtor in making the payments of the said amounts. Upon the direction from the Tribunal, operational creditor issued notice to the corporate debtor. Upon serving notice in the above Company petition corporate debtor has made its appearance through counsel. Further the Tribunal had given several opportunities to file their counter but there was no representation and thus the Tribunal has treated the corporate debtor as ex-parte on 20.04.2021. Even after making Ex-parte, the Hon'ble Tribunal has given opportunity for corporate debtor, but corporate debtor did not turned up. We are of the opinion that consistent absence of the corporate debtor amounts to tacit admission of debt and default. We have, therefore, no option but to adjudicate the matter without assistance of the corporate debtor.
6. The learned counsel for the operational creditor requested the Tribunal to appoint the IRP who is deemed to be fit.
7. 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 following directions: -
- (a) Corporate debtor, M/s. Parity Systems Private Limited is admitted in Corporate Insolvency Resolution Process under Section 9 of the I&B Code, 2016.



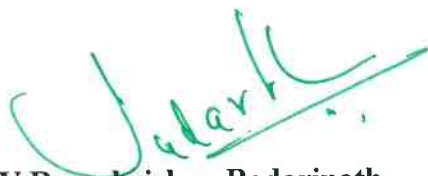
- (b) The Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, arbitration panel or other authority; transferring , encumbering, alienating or disposing 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;
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (h) That this Bench hereby appoints Mr. Anubolu Kuladeep, having IBBI Registration No IBBI/IPA-002/IP-N00974/2020-2021/13055, & email-id anubolu@outlook.com as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Registration is valid till as per the information available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
- (i) Accordingly, this Petition is admitted.
- (j) The Applicant/Operational Creditor is directed to deposit an amount of Rs.1 Lakhs with the IRP to meet the initial CIRP expenses including the fee of IRP.
- (k) 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. Ramakrishna Badarinath
Member Judicial

Pavani