

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT - II**

C.P. (IB)-2973(MB)/ 2018

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Spenta Multimedia Pvt. Ltd,

Having its registered office at: 2nd Floor, Peninsula Spenta, Mathuradas Mills Compound, N.M. Joshi, Lower Parel (W), Mumbai- 400 013 (Maharashtra).

.....Operational Creditor

Vs

Percept Advertising Ltd.,

(CIN No.: U74300MH1995PLC094070)

Having its Registered Office at: Suit 13, Ground Floor, Sai Commercial Center, Govandi Station Road, Govandi, Mumbai – 400 088 (Maharashtra).

.....Corporate Debtor

Order delivered on:- 12.05.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Ms. Sakshi Sharma, Advocate

For the Corporate Debtor : Mr. Anand Pandey, Advocate

ORDER

Per :- Justice P. N. Deshmukh, Member Judicial

1. This Company Petition is filed by *Spenta Multimedia Pvt. Ltd.* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Percept Advertising Ltd.* (hereinafter called “Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment to the Operational Creditor. This Petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of Principal sum of **Rs.27,92,250/-** (Rupees Twenty- Seven Lakhs Ninety-Two Thousand Two Hundred Fifty Only) together with interest up to 01.06.2018 of **Rs. 18,73,230/-** (Rupees Eighteen Lakhs Seventy-Three Thousand Two Hundred Thirty) @ **24% per annum** aggregating to a sum of **Rs.46,65,480/-** (Rupees Forty- Six Lakhs Sixty-Five Thousand Four Hundred Eighty only).
3. The Operational Creditor is engaged in the business of providing services in the nature of publications, content creation and design, digital media services etc. The Corporate Debtor approached the Operational Creditor for publishing an Advertisement in their publication named “Jetwings International, Jetwings Domestic and the Chartered Accountant.”

4. The Operational Creditor rendered the aforesaid services as instructed by the Corporate Debtor and raised **12 invoices** for the same between a time span of 1st June 2015 to 1st September 2015. The Date of Default of the First Invoice was **31st August 2015** and that of the last Invoice was **30th November 2015**. The Operational Creditor has annexed copies of these invoices to the Petition and submits that these were duly received by the Corporate Debtor. The Corporate Debtor was liable to make payments against each of the invoices expeditiously. The said Invoices contained a clause which provided for **levying penal interest @ 2% per annum on the bill amount if it remained unpaid after 90 days**. However, the Corporate Debtor neglected their obligation and failed to make payments against the said invoices.

5. Consequently, the Operational Creditor sent a Notice of Unpaid Operational Debt dated **13th July 2018** under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudication Authority Rules, 2016) requesting the Corporate Debtors to make payments against the unpaid invoices amounting to Rs. 46,65,480/- including interest from the respective due dates until realization. The Corporate Debtor replied to the above Demand Notice by letter dated **21st July 2018** wherein all claims and contentions of the Operational Creditor were denied but no further reply was filed to the Petition by the Corporate Debtor.

FINDINGS

6. We have heard the submissions of the Counsel appearing for the Operational Creditor and Counsel appearing for the Corporate Debtor. It is seen from the records that this Tribunal had given

ample opportunities to the Corporate Debtor to file their Reply since 3rd June 2021 when it was first listed after the lockdown period. Not only did the Corporate Debtor fail to file their reply within the stipulated period but also neglected their duty to appear before this Tribunal on several occasions. Despite this, the Tribunal accepted the Corporate Debtor's request for time to settle the matter and granted final opportunity to the Corporate Debtor to settle within a period of 2 weeks vide Order dated 26th October 2021. Yet the Corporate Debtor neither filed any Reply to the Petition nor settled the matter with the Operational Creditor. This inaction on the part of the Corporate Debtor amounts to admission of the debt and demonstrates their unwillingness to repay the same.

7. The Operational Creditor has successfully demonstrated and proved the debt and default in this case and has also proved that there is no credible reason for the Corporate Debtor to put the payment of the invoices on hold indefinitely. Since the Corporate Debtor has not filed any Reply to the Petition, this Bench is of the view that the Corporate Debtor has failed to prove the existence of any pre-existing dispute. We, therefore, conclude that this Petition satisfies all the necessary requirements for admission under Section 9 of the Code.
8. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

- a. **The above Company Petition No. (IB) - 2973(MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Percept Advertising Ltd.
- b. This Bench hereby appoints Mr. Sekhar Ananthanarayan, Insolvency Professional, Registration No: IBBI/IPA-003/IP-00033/2016-2017/1185 as the Interim Resolution Professional having registered office at B- 305, Sai Jyoe, Lalubhai Park West, Vile Parle West, Mumbai 400 056 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. That this 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 enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement 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, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

JUSTICE P. N. DESHMUKH
(MEMBER JUDICIAL)