

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

C.P. No. 2299/IBC/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

M/s Arsenius Skill Capital

Having registered office at: Unit B-14, New Heritage Building Kandarpada, Dahisar West, Mumbai – 400068.

.....Operational Creditor

V/s

TV Products India Private Limited

(CIN: U51900MH2008PTC186779) Having Registered Office at : 185/1, Modi Kutir, Jawahar Nagar, Road No. 11, Goregaon (W), Mumbai - 400062

.....Corporate Debtor

Order delivered on:- 23.11.2021

Coram:

Hon'ble Member (Judicial) : Mr. Ashok Kumar Borah
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Pranav Khatkul, Advocate
For the Corporate Debtor : Mr. Bhavesh Desai, Advocate

ORDER

Per :- Shyam Babu Gautam, Member (Technical)

1. This Company Petition is filed by *M/s Arsenius Skill Capital* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *TV Products India Private Limited* (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 a sum of Rs. 5,99,250/- (Rupees Five Lakhs Ninety-Nine Thousand Two Hundred Fifty Only).
3. **The Submissions of the Operational Creditor are as follows:**
 - a. The Operational Creditor states that the Corporate Debtor is liable to pay Arsenius Skill Capital an amount of Rs. 5,99,250/- (Rupees Five Lakhs Ninety Nine Thousand Two Hundred Fifty Only) which is due for the services of call centre, management consultant, support in human resource training and operations from the period 11.03.2016 to 06.10.2016.
 - b. The Operational Creditor further states that as per the Agreement dated 24.02.2014, the Corporate Debtor engaged the Operational Creditor to provide certain services on the terms and conditions as contained in the agreement.

- c. The Operational Creditor further states that sent a Demand Notice under section 8 of the Code thereby demanding payment in respect of unpaid Operational Debt due from the Corporate Debtor. The Operational Creditor has annexed the courier receipt of the tracking report showing that the Notice was delivered to the Corporate Debtor. The Corporate Debtor did not file any Reply to the Demand Notice and no dispute was raised by the Corporate Debtor under section 5(6) of the Code.
- d. The Operational Creditor further states that vide email dated 26.03.2018, the Operational Creditor reminded, requested the Corporate Debtor to make the outstanding payment. The Operational Creditor sent various invoices to the Corporate Debtor. The details of invoices and their due dates are as under :-

Invoice Details	Invoice Date	Amount
ASC/0350/0133/15-16	23.03.2016	30,000/-
ASC/0013/0133/16-17	01.06.2016	1,26,500/-
ASC/0017/0133/16-17	05.07.2016	1,26,500/-
ASC/0027/0133/16-17	05.08.2016	1,26,500/-
ASC/0033/0133/16-17	05.09.2016	1,26,500/-
ASC/0044/0133/16-17	06.10.2016	63,250/-
	Total Amount	5,99,250/-

- e. The Operational Creditor further submits that inspite of repeated requests, reminders (verbal as well as written) for the payment of

the outstanding amount, the Corporate Debtor willfully and/or deliberately failed and neglected to make payment of the said outstanding dues.

- f. The Operational Creditor has annexed the Agreement dated 24.02.2014 with the Petition. The Operational Creditor has also annexed copy of Bank Statement for the year 01.04.2014 to 31.03.2018. The Operational Creditor has also annexed Certificate under Section 9 (3) (c) of the Insolvency and Bankruptcy Code dated 17.05.2017 by HDFC Bank confirming that there is no payment of unpaid Operational Debt from the Corporate Debtor.
- g. The Operational Creditor has also submitted the ledger account of the Corporate Debtor in the books of the Operational Creditor for the year ended 01.04.2014 to 31.03.2017 which corroborates the amount claimed.

4. Submissions of the Corporate Debtor are as follows :-

- a. The Corporate Debtor has filed its reply dated 15.02.2020. The Corporate Debtor has admitted and acknowledged the due amount of Rs. 5,99,250/- (Rupees Five Lakhs Ninety Nine Thousand Two Hundred and Fifty. The Corporate Debtor has also not replied to the Demand Notice sent to it u/s 8 of the Code.
- b. The Corporate Debtor further stated that the Corporate Debtor Company has not been actively carrying any Business activities since past 18 months and has not been able to generate any turnover and as a result the Corporate Debtor Company is not in a position to repay the claim amount.

FINDINGS

5. 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 the Corporate Debtor through its Reply dated 15.02.2020, has admitted its liability to pay to the Operational Creditor. Further the Corporate Debtor Company is in financial crunches hence there is nothing much to say in defense. The Corporate Debtor has no objection for Admission of this present Petition.
6. Further, on the basis of the evidences on record the Operational Creditor has established that he has delivered services to the Corporate Debtor Company for which an amount of Rs. 5,99,250/- is due and a default has also occurred. Considering these facts and circumstances, the nature of the Debt is an 'Operational Debt' as defined under section 5 (21) of the Definitions under The Code. There is a "Default" as defined under section 3 (12) of The Code on the part of the Debtor.
7. Further, we have also perused the notice sent under Section 8 (2) of the Code and it came to our notice that the Corporate Debtor has received the same but has not paid the amount of unpaid salary. Further, if the Debtor wanted to place on record evidence of 'Dispute' then he could have raised the objection within 10 days as prescribed under section 8 (2) of The Code which had also lapsed now. Hence, admittedly there is no 'Dispute' in respect of the outstanding Debt.
8. As a consequence, after the expiry of the period as prescribed and keeping admitted facts in mind that, the Operational Creditor had

not received the outstanding Debt from the Debtor and that the formalities as prescribed under The Code have been completed by the Petitioner/Applicant. It is my conscientious view that this Petition deserves '**Admission**' specially wherein the Debtor is accepting its default.

9. The Operational Creditor has successfully demonstrated and proved the debt and default in this case and has also proved that there is absolutely no reason for the Corporate Debtor to hold on to the payment of the invoices. The Operational Creditor has also suggested the name of proposed Interim Resolution Professional along with his consent letter in Form-2. Hence this Bench is left with no option except to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 9 of the Code.
10. For the foregoing reasons, the above Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

11. **The above Company Petition No. (IB) -2299 (MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against TV Products India Private Limited.
12. This Bench hereby appoints Mr. Manish Shah, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00094/2017-18/10194 as the Interim Resolution Professional having address at A/502, Krishna Palace, Thakur Complex, Kandivali West, Mumbai

- 400101 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

13. The Operational Creditor shall deposit an amount of Rs. Two Lakhs 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.
14. 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.
15. 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.
16. 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.

17. 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.
18. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
19. 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.
20. Registry shall send a copy of this order to the Registrar of Companies, Mumbai 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.

Dated the 23rd day of November, 2021

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**ASHOK KUMAR BORAH
(MEMBER JUDICIAL)**