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IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-1950/ND/2019

(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:

BSE LIMITED

...Applicant/Operational Creditor

VERSUS

STG LIFECARE LIMITED

...Respondent/ Corporate Debtor

Judgment Pronounced on: 10.01.2020

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant: Mr. Abhishek Puri, Mr. Manan Gambhir, Advocates

For the Respondent: ----

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Handwritten signature and date: 13/01/2020

MEMO OF PARTIES

BSE LIMITED

Registered office at 25 Floor, P.J. Towers
Dalal Street Fort, Mumbai-40001

...Applicant/Operational Creditor

VERSUS

STG LIFECARE LIMITED

Registered office at 108, Himalaya Palace
65, Vijay Block, Laxmi Nagar
New Delhi-110092

...Respondent/ Corporate Debtor

ORDER

Per-Dr. Deepti Mukesh, Member (J)

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 BSE Limited (for brevity 'Applicant') through Mr. Manu Thomas, Assistant General

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Manager who is authorized vide Board Resolution dated 18.05.2015, against STG Lifecare limited (for brevity 'Corporate Debtor').

2. The Applicant is a recognized stock exchange under the provisions of the Securities Contracts (Regulations) Act, 1956 and is constituted to provide a platform for the purpose of assisting in the business of buying, selling or dealing in securities of the companies. The company is having its office at 25 Floor, P.J. Towers, Dalal Street Fort, Mumbai-40001.
3. The Corporate Debtor is a listed company incorporated under the provisions of Companies Act, 1956 on 24.04.1992, and is engaged in the activity of providing healthcare consulting and patient referral services with most of the large hospitals in India. The company is having its registered office at 108, Himalaya Palace 65, Vijay Block, Laxmi Nagar New Delhi-110092.
4. The Applicant states that an Listing Agreement dated 07.01.2000 was executed between the applicant and the corporate debtor pursuant to which the securities of the corporate debtor were allowed to be listed, and consequently traded on the platform provided by the applicant. Copy of listing agreement is annexed. The said listing agreement as per clause 38 provided that the corporate debtor would pay an Annual

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Listing Fee (“ALF”) on or before 30th April in each year and the said ALF would be computed on the basis of the capital of the company as on 31st March every year. The extracts of the clause 38 from the agreement are reproduced herein:

“38. The company agrees that as soon as its securities are listed on the exchange, it will pay to the exchange an initial listing fee as prescribed in schedule II hereto annexed and made a part thereof, and that thereafter, so long as the securities continue to be listed on the stock exchange, it will pay to the exchange on or before the 30th April, in each year an annual listing fee computed on the basis of the capital of the company as on 31th March and worked out as provided in schedule II hereto annexed. The company also agrees that it shall pay the additional annual listing fee, at the time of making application for listing of securities arising out of further issue, as is computed in terms of schedule II annexed for any addition in the capital after 31st March.”

5. The applicant submits that a Uniform Listing Agreement dated 29.02.2016 was executed between the parties in accordance with new SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (‘Listing Regulation’), pursuant to circular no. CIR/CFD/CMD/6/2015 notified by SEBI on 13.10.2015. Copy of said

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Uniform Listing Agreement is annexed. It is submitted that under uniform listing agreement for admission and continued admission of the securities to dealings on the platform of the applicant, the corporate debtor in terms clause 3 was obligated to pay listing fees as may be specified/levied by the applicant from time to time. Clause 3 is reproduced herein:

3. That the listed entity shall pay listing and such other fees/fines as may be specified/levied by the exchange from time to time within the prescribed period."

6. The applicant has submitted that the corporate debtor had made payments of the ALF till F.Y 2013-14, and thereafter the corporate debtor failed to pay the amount. The applicant issued consolidated invoice dated 01.04.2017 on the corporate debtor which included ALF for the FY 2017-18 and the arrears of ALF from 2014-15 to 2016-17 along with the interest on delayed payments. However, the corporate debtor had avoided and neglected to pay such fees.

The outstanding amount is mentioned as follows:

- i. ALF for the FY 2014-15 amounting to Rs 1,00,000/- along with applicable taxes and interest for delayed payment.

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- ii. ALF for the FY 2015-16 amounting to Rs 2,00,000/- along with applicable taxes and interest for delayed payment.
- iii. ALF for the FY 2016-17 amounting to Rs 2,00,000/- along with applicable taxes and interest for delayed payment.
- iv. ALF for the FY 2017-18 amounting to Rs 2,50,000/- along with applicable taxes and interest for delayed payment.
- v. ALF for the FY 2018-19 amounting to Rs 2,95,000/- along with applicable taxes.

6. The Applicant issued a demand notice dated 20.12.2018 in Form 3 under the provisions of section 8 of I&B Code, 2016 (Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 calling upon the corporate debtor to pay the balance outstanding amount of Rs. 12,56,428/-. The said notice was served through speed post as well as through email at its registered address as reflected in MCA website and the tracking report is reflecting 'Item Delivered'. The tracking report and copy of email sent are annexed with application. The corporate debtor has neither replied to the said notice nor made the payment against the outstanding dues claimed by applicant.

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7. Hence, the Applicant filed present Application on 14.08.2019 under section 9 of IBC, 2016 and served the copy of this application which is duly delivered to the Corporate Debtor as per the affidavit of service and tracking report filed by the applicant which is reflecting “Successfully Delivered”, which has been duly annexed.
8. The Corporate Debtor has neither appeared in the matter nor replied to the application and the matter was proceeded ex parte on 19.09.2019.
9. The Applicant has filed an affidavit under section 9(3)(b) affirming that no notice of dispute has been given by the Corporate debtor relating to dispute of the unpaid operational debt.
10. The Applicant has filed the bank certificate of HDFC Bank dated 23.01.2019 as required u/s. 9(3)(c) of I&B Code, affirming that in respect of the amount claimed or any part thereof, the Applicant has not received nor had any person, on its behalf had received in any manner the amount due to them.
11. The application is complete as per the requirements of section 9 of the code. The invoice was raised on 01.04.2017 and the application is filed on 14.08.2019 which is within the period of limitation.

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12. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
13. The present application is complete and perusing the documents on records it goes beyond doubt that the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt, which has remained uncontroverted which amounts to passive admission. In the light of above facts and records the present application is admitted.
14. The Applicant has named the Insolvency Resolution Professional, to be appointed by the order of Tribunal, as Ms. Dipti Mehta, with registration number IBBI/IPA-002/IP-N00134/2017-18/10350 (email – dipti@mehta-mehta.com) as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Respondent and specific consent is filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016.
15. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Ms. Dipti Mehta to meet

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out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

16. 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 Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.
17. In terms of the above order, the Application stands admitted in terms of Section 9(5) of IBC, 2016. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named, by the Registry. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. A copy of this

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order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/—

HEMANT KUMAR SARANGI
MEMBER (T)

Sd/—

DR. DEEPTI MUKESH
MEMBER (J)

Pronounced today under Rule 151 of the NCLT Rules 2016 as Hon'ble Member(T), Hemant Kumar Sarangi is not holding court today.



Sd/—
13/11/2020

Sd/—
10/11/2020
COURT OFFICER

Sd/—
13/11/2020
सहायक पंजीसक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अदिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.O. COMPLEX, NEW DELHI 110003

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