

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-820(ND)/2019

In the matter of

Rathi Powertech Global Pvt. Ltd.

Registered Office

**21/1A, Mohan Cooperative Industrial Estate
Mathura Road
South Delhi-110044**

.....Financial Creditor

V/s

**Raghuveer Metal Industries Ltd.
205, M.J Shopping Centre
3, Veer Savarkar Block
Shakarpur, Delhi-110092**

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 25.09.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present for the Petitioner: Mr. Karan Gandhi, Advocate

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The present petition has been filed for initiating the Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate its outstanding dues.

2. As per averments, the Operational Creditor and the Corporate Debtor entered into a License User Agreement dated 20.09.2016

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permitting the Corporate Debtor to use their Trade Mark "Power Tech" on the TMT rods manufactured by them. In return the Corporate Debtor was to pay Royalty for which Invoices were raised on monthly basis. Payment received were duly adjusted on a First IN First Out basis (FIFO). As per the statement of account maintained by the Operational Creditor a sum of Rs. 14,91,554/- is still pending for remittance. Despite repeated requests and reminders, the Corporate Debtor has failed to liquidate the outstanding liability in terms of the agreement.

3. A Demand notice dated 09.01.2019 under Section 8 of the Code was issued to the Corporate Debtor which was delivered vide emails. As the same was not replied to, the Operational Creditor has now followed it up by filing the present petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 praying for initiating the Insolvency Resolution Process of the Corporate Debtor.

4. On being served with the notice of the present proceedings, the Corporate Debtor failed to put in appearance and was therefore proceeded ex parte. Keeping in view that the averments made by the Operational Creditor have not been controverted and in the absence of any pre-existing dispute, the prayer of the Operational Creditor merits consideration. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

"(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any

judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Further,

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

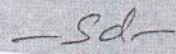
(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

"Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

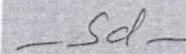
5. The Financial Creditor has proposed the name of Mr Amit Gupta, as the IRP in this case. His particulars are: Registration No. IBBI/IPA-002/IP-N00021/2016-17/10048 address: B-12, Basement, Murli Bhawan, 10-A, Ashok Marg, Lucknow-226001 email id: amitguptacs@gmail.com. Consent and certificate of eligibility of Mr. Amit Gupta, are on record. We therefore confirm him as the IRP in this case. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21. The IRP shall file his report within 30 days as per statutory requirements.

6. Copy of the order be communicated to both the parties as well as to the IRP.

7. To come up on 6th November, 2019 for further consideration.



(V.K Subburaj)
Member (T)



(Ina Malhotra)
Member (J)