



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

C.P. No. 1658 of 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. MDS DIGITAL MEDIA PVT LTD

Having its registered office at: B- 401, 4th Floor, Brahma
Shopping Centre, Plot No. 53, Sector 15, CBD Belapur, Navi
Mumbai- 400614.

.....Petitioner/Operational Creditor

V/s.

M/S. PLANET41 MOBI- VENTURE LIMITED

(CIN: U92120MH2006PLC164541)

Having its registered office at: 109/110, Link Way Estate,
New Link Road, Malad (W), Mumbai, Pin Code- 400063

.....Respondent/Corporate Debtor

Reserved for order on: **12.12.2022**

Order Pronounced on: **16.12.2022**

Coram: Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Satya Ranjan Prasad, Member (Technical)

For the Petitioner: Mr. Puru Jain i/b Jain Law Partners LLP

For the Respondent: Mr. Aashul Agarwal

Per: Hon'ble Shri H.V. Subba Rao, Member (Judicial)



1. This Company petition is filed by M/s. MDS Digital Media Pvt Ltd (hereinafter called “Petitioner”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s. Planet41 Mobi-Venture Limited (hereinafter called “Corporate Debtor”) by invoking the provisions of Section 9 of 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 claiming an “Operational Debt” of Rs. 1,77,57,388/- along with Rs. 71,92,678/- as interest @ 18% per annum.
3. The Corporate Debtor filed reply dated 09.01.2019 opposing the admission of the above company petition with usual denials. The main thrust of the Corporate Debtor in the reply as well as during the course of final arguments is only with regard to the quantum of amount claimed by the Operational Creditor. Of course, the Corporate Debtor also raised the plea of limitation in the reply.
4. Heard, Mr. Puru Jain i/b Jain Law Partners LLP, counsel appearing for the Operational Creditor and Mr. Aashul Agarwal, counsel appearing for the Corporate Debtor and perused the record. The counsel appearing for the Operational Creditor invited the attention of this Tribunal to the various invoices basing on which the above Company Petition was filed and also the Demand Notice Dated 21.03.2018 sent by the Operational Creditor along with the proof of service of demand notice on the Corporate Debtor and prayed for admission of the above Company Petition. Admittedly the Corporate Debtor did not issue any reply to the Demand Notice Dated 21.03.2018 sent by the Operational Creditor.
5. Mr. Aashul Agarwal counsel appearing for the Corporate Debtor except making an attempt to convince this Bench that the amount



claimed by the Operational Creditor is exorbitant did not dispute the “debt” and “default” which are the only requirements for admitting the company petition filed under section 9 of the IBC. Even though, the Corporate Debtor has raised the plea of limitation, the counsel appearing for the Corporate Debtor did not address any serious argument in this regard. It is appropriate to refer para ‘E’ at page no.5 of the reply filed by the Corporate Debtor which is extracted hereinunder that clearly demonstrate the existence of “debt” and “default” beyond the threshold limit in this case.

Para “E”-

It is submitted that the ledger Account of the Operational Creditor in the book of Corporate Debtor is only Rs. 8,56,836.00/- (Rupees Eight Lacs Fifty Six Thousand Eight Hundred Thirty Six). Hence it is clear that as claimed by the Operational Creditor, the invoices relied upon by the Operational Creditor are not outstanding and only a sum of Rs. 8,56,836.00/- is outstanding.

6. Therefore, it is very clear from the above admission in the reply of Corporate Debtor to the effect that the Corporate Debtor has committed default in respect of an “Operational Debt” which is beyond the threshold limit which are the only legal requirements for admission of Section-9 petition as per the IBC. Some of the invoices pertains to the year 2015-16 and the above Company Petition being filed on 07.05.2018 is well within the limitation.
7. The entire argument of the counsel appearing for Corporate Debtor is with regard to the crystallization of the claim which is beyond the purview of this Tribunal and therefore there is no point in dealing with such issue.



8. The Operational Creditor claimed an amount of Rs. 1,77,57,388/- towards principal and an amount of Rs. 71,92,678/- towards interest. Since, the Operational Creditor did not place any evidence before this Tribunal to prove its entitlement for interest, this Tribunal is disallowing the interest portion and admitting the present Company Petition only for the principal amount of Rs. 1,77,57,388/- along with reasonable pendente lite interest @ 9% P.A from the date of filing the above Company Petition till its disposal since, it is a commercial transaction.
9. After hearing both sides, this Tribunal is of the considered view that the existence of “debt” and “default” stands proved in this case and the Company Petition is within limitation.
10. Accordingly, the above company petition is admitted and all pending applications including I.A. 3752/2022 stands disposed of by passing the following;

ORDER

- a. The above Company Petition No. (IB) 1658 (MB)/2018 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Planet41 Mobi- Venture Limited.
- b. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Praful Raghunath Renuse (praful.renuse@gmail.com)**, Insolvency Professional, Registration No: IBBI/IPA-003/IP-N00410/2022-2023/14111 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.



- c. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by COC.

- 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 or 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
SATYA RANJAN PRASAD
MEMBER (TECHNICAL)

--Rajeev --

Sd/-
H.V. SUBBA RAO
MEMBER (JUDICIAL)