



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

IB-1899/(ND)/2019

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

M/s. Cargo Planners Ltd.

Registered Office at:
A-191, Gali No 8, Road
No 4, Mahipalpur Extension.
New Delhi, 110037

...Applicant/Operational Creditor

Versus

M/s. Aakriti Info-Media Pvt. Ltd.

Registered Office at:
FFS No 24 Udyog Sheel Mahila
Sehkari Samiti Ltd., 120 Mathura Road
Near Apollo Hospital New Delhi- 110076

...Respondent/Corporate Debtor

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Coram:

SHRI. P.S.N. PRASAD, Hon'ble Member (Judicial)

SHRI.RAHUL BHATNAGAR, Hon'ble Member (Technical)

Counsel for Applicant/Liquidator: Mr. Dhananjaya Sud, Adv.

ORDER

Per: P.S.N PRASAD, MEMBER (JUDICIAL)

Date: 10.06.2022

1. This is an application filed by the Applicant M/s. Cargo Planners Ltd. on 05.08.2019 through Authorised Representative, Mr. Soban Singh Negi, duly Authorised vide Board Resolution dated 27.05.2019, to initiate corporate insolvency resolution process ("CIRP") under Section 9 of the Insolvency and Bankruptcy Code 2016 ("the Code") of the Respondent M/s. Aakriti Info Media Pvt. Ltd. for the alleged default on the part of the Respondent in clearing the debt of Rs. 13,98,035 (Rupees Thirteen Lakhs Ninety Eight Thousand and Thirty Five), including 18% interest annually from April 2015 till institution of this application, as



alleged by the Applicant. The details of transactions leading to the filing of this application as averred by the Applicant/Operational Creditor are as follows:

- i. That the Corporate Debtor approached the Operational Creditor for rendering freight forwarding services from the Operational Creditor. The Operational Creditor agreed to render its services to the Corporate Debtor as demanded by the Corporate Debtor.
- ii. That upon completion of work the applicant raised invoices for the job executed as per agreed rates and sent the same to the respondent along with the relevant documents for the payment thereof.
- iii. That the applicant maintained an open and current account, in due and ordinary course of business, in the name of Respondent.
- iv. That, as per the books of accounts maintained by the applicant, in due and ordinary course of business, upon making necessary adjustment of the payment received from the respondent, an amount of Rs. 9,27,699/- (Rupees Nine Lakh Twenty Seven Thousand Six



Hundred and Ninety Nine) became due to the applicant as principal outstanding from the respondent which has not been paid by the respondent.

- v. That the Operational Creditor issued a Demand Notice under section 8(1) read with clause (a) of sub-rule (1) of Rule 5 of the Insolvency and Bankruptcy Code, 2016 on 17.07.2019 in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 through speed post as well as courier also at the registered address of the Corporate Debtor.
- vi. That, the Corporate Debtor has not been able to make any payment towards settling dues.
- vii. That the Corporate Debtor is commercially insolvent and is not meeting his liabilities.
- viii. The said demand notice was duly delivered to Corporate Debtor on 25.07.2019 but the Operational Creditor did not receive any reply from the Corporate Debtor to the said demand notice.
- ix. That, therefore, the Applicant has filed the present application under section 9 of the Insolvency and



Bankruptcy Code, 2016 to initiate Corporate Insolvency Resolution Process of the Respondent.

2. Despite several notices to the Corporate Debtor, no one was present on behalf of the Corporate Debtor on any of the dates of the hearing and hence the Corporate Debtor was set ex-parte vide order dated 07.01.2021.
3. We have gone through the documents filed by the Operational Creditor and heard the arguments made by the counsel of the Operational Creditor. The applicant has claimed the default on part of the Respondent for amount of Rs. 13,98,035 (Rupees Thirteen Lakhs Ninety Eight Thousand and Thirty Five), including 18% interest.
4. In compliance of Section 9 (3)(b) of the Insolvency and Bankruptcy Code, 2016, the Operational Creditor has filed affidavit dated 25.07.2019 stating that no notice of any pre-existing dispute has been received by the Applicant from the Corporate Debtor relating to the dispute of the un-paid Operational Debt.
5. Vide order dated 10.02.2021, it has been noted that the Operational Creditor is subjected to CIRP.



6. This Tribunal vide order dated 21.09.2021 directed the counsel of Operational Creditor (Operational Creditor is subjected to CIRP) to file an affidavit cum undertaking to pay an amount of Rs. 2 Lacs to IRP as mobilization advance which may be ordered by the Tribunal if the CIRP is initiated against the Corporate Debtor and also continue to keep paying the fee and expenses of RP until the constitution of CoC. The Liquidator of the Operational Creditor filed an affidavit on 11.01.2022 stating that the Operational Creditor/ Applicant has sufficient funds to pay the CIRP Cost, in case CIRP of the Corporate Debtor is admitted, he undertakes to pay the same as directed by this Hon'ble Tribunal.
7. In the light of the above said facts and after giving careful consideration to the entire matter, hearing the arguments of the learned counsel for the Operational Creditor and upon appreciation of the documents placed on record to substantiate the claims, this Adjudicating Authority is of the view that there is an operational debt which is due from the Corporate Debtor and the Corporate Debtor has defaulted in making payment of the amount due and along with that, in the absence of any pre-



existing dispute, this tribunal **admits** this application and **initiates CIRP** on the Corporate Debtor with immediate effect.

8. The name of IRP has not been proposed in the application filed by the Operational Creditor. From the panel of Insolvency Professional(s) (IPs) valid for the period – January, 1, 2022 – June, 30, 2022 issued by IBBI panel in terms of Section 16(4), this Adjudicating Authority, hereby appoints Mr. Rakesh Bhatia (Email – iprakeshbhatia@gmail.com), Reg. No: IBBI/IPA-001/IP-P00978/2017-2018/11608, to act as Interim Resolution professional. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.
9. The Liquidator of the Operational Creditor, Ms. Deepika Bhugra Prasad shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be accounted for by the IRP and shall be reimbursed to the Applicant to be recovered as costs of the CIRP.
10. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution



Professional, immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 9 of the Insolvency & Bankruptcy Code, 2016.

11. We also declare moratorium in terms of Section 14 of the Code.

The necessary consequences of imposing the moratorium flow from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(a) 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;

(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 Securitization 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.

12. It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government Local Authority, Sectoral Regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of Insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period.

13. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government and the supply of essential goods or services to the Corporate Debtor, as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code



(Amendment) Act, 2018, which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

14. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor, are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional, as may be required by him, in managing the day-to-day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional shall make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution



Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of his obligation, imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

- 15.** The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi, at the earliest possible but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified to the public at large.

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(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

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MEMBER (JUDICIAL)