

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI (COURT NO. IV)**

**Company Petition No. IB-20/ND/2018**

(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:**

**M/s RANDSTAD INDIA PRIVATE LIMITED**

**...Applicant/Operational Creditor**

**VERSUS**

**M/s BASHAR TECHNOLOGIES PRIVATE LIMITED**

**...Respondent/Corporate Debtor**

**Pronounced on: 26.08.2019**

**CORAM:**

**DR. DEEPTI MUKESH**

**HON'BLE MEMBER (Judicial)**

**SHRI HEMANT KUMAR SARANGI**

**HON'BLE MEMBER (TECHNICAL)**

For the Applicant: Mr. CA Sinha, Adv. Ms. Sonali Khanna, Adv.

For the Respondent: Mr. Sameer Abhyankar, Adv. Mr. Akshay  
Joshi, Adv

## **MEMO OF PARTIES**

### **M/s RANDSTAD INDIA PRIVATE LIMITED**

Having its registered office at:  
Ranstad House, Old No. 5 & 5a  
New No. 9, Pycrofts garden road,  
Chennai-600006

**...Applicant/Operational Creditor**

## **VERSUS**

### **M/s BASHER TECHNOLOGIES PRIVATE LIMITED**

Having its registered office at:  
R-652, Second Floor,  
New Rajendra Nagar,  
New Delhi-110060

**...Respondent/ Respondent**

## **ORDER**

**PER- SHRI HEMANT KUMAR SARANGI HON'BLE MEMBER (T)**

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 M/s Randstad Pvt. Ltd. (for brevity 'Applicant') through its

Authorized representative Mr. Tapas Moitra authorizing him to file present application vide Board resolution dated 11.04.2017, with a prayer to initiate the Corporate Insolvency process against M/s Bashar Technologies Private Limited (for brevity 'Respondent').

2. The Applicant, the Operational Creditor namely M/s Randstad India Private Limited is a company incorporated under the provisions of Companies Act, 1956 with CIN No. U74210TN1992PTC023097, having its registered office at RANDSTAD House, Old No. 5 and 5 A, New No. 9, Pycrofts Garden Road, Chennai-600006.
3. The Respondent, namely M/s Bashar technologies Private Limited is a company incorporated on 03.11.2014 under the provisions of Companies Act, 2013 with CIN No. U72900DL2014PTC272885, having its registered office at R-652 Second Floor, New Rajendra Nagar, New Delhi-110060. The Authorised Share Capital of the respondent company is Rs. 5,00,000/- and Paid Up Share Capital of the company is Rs. 2,28,930/-as per Master Data of the company.

4. It is the case of the applicant that the Respondent company entered into a Deputation Services Agreement (**“the agreement”**) dated 05.04.2017 with the applicant. In terms of the said agreement the applicant provided deputation services through its employees in connection with Corporate Debtor’s support functions, based on their purchase orders (“service”) and raised invoices on the Corporate Debtor for the said supplies.
5. As per the terms of the agreement dated 05.04.2017 payment by corporate Debtor had fallen due to the Applicant within 7 days of raising the said invoices. An amount of Rs. 25,99,608/- (Rupees Twenty Five Lakhs Ninety Nine Thousand Six Hundred and Eight Only), along with interest @ 15% per annum, from the respective dates on which each invoice fell due for payment, till actual date of its payment/ realization (**“total outstanding”**) has become due from the Corporate Debtor to the Applicant on account of such services as per various invoices from 27.07.2017 to 13.10.2017.

6. In spite of giving assurance by way of email on 31.05.2018 about the clearing of dues by 10.06.2018 the Respondent never bothered to make the payment.
7. Thereafter, payments were made by the respondent to the employees directly. Thus, this payment was set-off by the applicant by issuing 4 (four) credit notes dated 10.10.2018 to the respondent.

<b>PARTICULARS</b>	<b>AMOUNT</b>
Total dues as on 13.10.2017	Rs.38,20,776/-
Less: Credit Note	Rs. (2,65,337)/-
=	Rs. 35,55,439
Less: Credit Notes dated 10.10.2018	Rs. (9,55,831)
= Amount/ Principal outstanding	Rs. 25,99,608/-

**Therefore, the balance debt of principal outstanding is Rs. 25,99,608/- (Rupees Twenty Five Lakhs Ninety Nine Thousand Six Hundred and Eight Only).**

8. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 27.09.2018 under

Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the entire payment of Rs.33,39,722.64/-(Rupees Thirty Three Lakhs Thirty Nine Thousand Seven Hundred Twenty Two and Sixty Four Paise only) inclusive of interest component at the rate of 15 % per annum, calculated from the dates of payment upto 24.09.2018, within 10 days from receipt of the notice, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.

9. Despite the demand notice sent under Section 8 of the Code, the Respondent has failed to pay the amount demanded and has neither raised any notice of dispute nor replied to the said notice, hence this section 9 application, seeking to unfold the process of CIRP.
10. The respondent has not filed reply to present application. The respondent had proposed settlement as recorded in the order dated 23.04.2019. On 10.07.2019 it is recorded that settlement was not coming through, hence, the matter was listed for final hearing. The applicant was heard when the Ld.

Counsel for corporate debtor was present on 21.08.2019.

11. In the present case, there is no dispute raised by the 'Corporate Debtor' and the claim of applicant remains undisputed.
12. The applicant has attached the affidavit in compliance of the section 9(3)(B) of the Code.
13. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
14. In view of above, we are satisfied that the present application is complete and the Operational Creditor is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, as the same is admitted by Corporate Debtor in its email and also making part payment, the application deserves to be admitted. Hence, the present application is admitted, in terms of section 9(5) if IBC 2016.
15. The Applicant has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Ms. Arti Baluja registration no. IBBI/IPA-002/IP-N00780/2018-2019/12378 and email address is ca.artibaluja@gmail.com and contact number is 9891446721,

as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.

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 Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in vogue.
17. A copy of the order shall be communicated to the Applicant as well as to the Respondent above named by the Registry. Further the IRP above named be also furnished with copy of this order forthwith by the Registry.

Sd/-

Sd/-

**(SHRI HEMANT KUMAR SARANGI)**

**(DR. DEEPTI MUKESH)**

**MEMBER (Technical)**

**MEMBER (Judicial)**