

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1**

C.P. (I.B) No. 403/9/NCLT/AHM/2019

**Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)  
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE  
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 02.02.2021**

**Name of the Company:**

Hi-tech Enterprise  
V/s  
Maximaa Systems Ltd

**Section:**

9 of the Insolvency & Bankruptcy Code, 2016

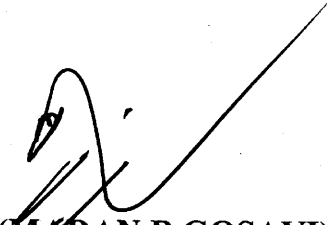
**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.



**(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)**



**(MADAN B GOSAVI)  
MEMBER (JUDICIAL)**

Dated this the 2<sup>nd</sup> day of February, 2021.

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1**

**CP (IB) No.403/9/NCLT/AHM/2019**

(An application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016)

**In the matter of:**

**M/s Hitech Enterprise**

Through Its Proprietor  
Having an address at;  
36, Daga Chambers, 11,  
Narayan Dhuru Cross Lane,  
Mumbai-400 003

**..Operational Creditor**

**Versus**

**M/s Maxima Systems Limited**

CIN: L27100GJ1990PLC014129

Having Registered address at;  
B-1, Yashkamal, Tithal Road,  
Valsad- 396001

**..Corporate Debtor**

**Order reserved on 18.01.2021**  
**Order Pronounced on 02.02.2021**

**Coram: MADAN B. GOSAVI, MEMBER (J)**  
**VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. Arpit Singhvi appeared for the Operational Creditor.

Learned Counsel Mr. Jaimin Dave appeared for the Corporate Debtor.

**ORDER**  
**[Per Bench]**

1. The instant application has been filed by M/s Hitech Enterprise, the operational Creditor under section 9 of Insolvency and Bankruptcy

Code, 2016 (hereinafter referred to as **"IB Code"**) for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as **"CIRP"**) against M/s Maxima Systems Limited being Corporate Debtor for the default of Rs. 6,61,372/- including interest, Operational Creditor stated the date of default is 16.06.2016.

2. It is submitted by the operational creditor that the respondent Company is situated in Valsad Gujarat hence well within the jurisdiction of this Tribunal.
3. It is submitted by the applicant that Operational Creditor was engaged in the business with Corporate Debtor and used to supply goods to the Corporate Debtors from time to time. The Corporate Debtor supplied the goods and raised the various invoices in favor of the Corporate Debtor. The goods supplied by the operational creditor were also received by the corporate Debtor which is proved through the lorry receipt annexed by the Operational Creditor.
4. It is evident from the records that the Operational Creditor has raised a total of 10 (ten) invoices from 12.04.2014 to 30.09.2014 for the total claim of Rs. 4,06,768/- out of 10 invoices, the payment of three invoices was to be made by the Corporate debtor immediately after raising the invoices and the amount of 6 (six) was to be paid within 30 days from the date of raising the invoices, the remaining one

invoice's amount was to be paid within 60 days from the raising of the invoice by the operational creditor.

5. It is also evident from the record that the operational Creditor has communicated through email several times with the corporate debtor to make the payment of the outstanding amount, but, Corporate Debtor has not acknowledged or replied therein.
6. The operational Creditor has sent the demand notice under section 8 of IB Code read with rule 5 of the Insolvency and Bankruptcy Code (Application to the Adjudicating Authority) Rules, 2016 in form 3 along with all the invoices and lorry receipt. The corporate Debtor refused to receipt the said demand notice the same was returned to the operational creditor with the mark that the recipient has refused to receipt.
7. Thereafter, the present application was filed by the operational creditor on 12.06.2019, authorized person of the Corporate Debtor appeared and filed its reply to the instant application wherein, no objections were raised by the corporate debtor. Moreover, the corporate debtor stated in its reply that due to the financial crunch the Corporate debtor is not able to pay. Further, its submitted by the corporate debtor that if the instant application is admitted, the Corporate Debtor is not having any objection(s).

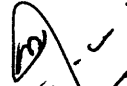
8. On perusal of the record and submission made by the Ld. counsels of the operational creditor as well as the submission made by the authorized person of Corporate Debtor, it is found that the aforesaid invoices have been raised by the applicant operational creditor was of 2014. Moreover, the last invoice was raised by the corporate debtor was on 30.09.2014 and the payment of the said invoices was to be made within 30 days from the date of issuance of the invoices. The operational creditor sent the demand notice on 28.05.2019 and filed the present application on 12.06.2019 after the expire of more than three years from the date of default herein apparently, application barred by Limitation.
9. In view of the above, It is noted that the present application has been filed after more than three years from the date of default occurred. Moreover, the operational creditor mentioned the date of default as 16.06.2016 on the basis that the amount of Rs. 20,000/- was received as shown in the Bank account of the operational Creditor. However, it is not established by any cogent material that the amount received on 16.06.2016 received from the Corporate Debtor. No other documents are annexed to extend the limitation except admission of debt in the reply filed by the corporate debtor to this application. We are of the considered view the admission of debt by the corporate debtor in this manner can't extend the limitation particularly when it is made after the expiry of the original period of three years from the date of default on which right to sue accrued. Hence, this application stands

dismissed on Limitation ground alone. Therefore, no need to discuss any other aspect of the matter.

10. The instant CP(IB) 403/9/NCLT/2019 is disposed-off in terms indicated above.
11. Urgent certified copy of this order may be issued to all concerned parties, if applied for, upon compliance with all requisite formalities.



**(Virendra Kumar Gupta)**  
**Member (Technical)**



**(Madan B. Gosavi)**  
**Member (Judicial)**

**RB**