IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT NO. IV)
Company Petition No. IB-800/ND/2020

[*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:
TCI EXPRESS LIMITED
...APPLICANT/OPERATIONAL CREDITOR

VERSUS

TURTULE BOOK PRIVATE LIMITED
...RESPONDENT/ CORPORATE DEBTOR

JUDGMENT PRONOUNCED ON: 19.01.2021

CORAM:
DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (TECHNICAL)

MEMO OF PARTIES

TCI EXPRESS LIMITED
Having registered office at:
Flat No. 306 & 307, 1-1-8-201-203,
3rd Floor, Ashoka Bhoopal Chambers,
S.P.Road Secunderabad, Telangana-500003.

Also at:
TCI House
69, Institutional Area, Sector-32,
Gurugram-122001,
Haryana, India.

...Applicant/Operational Creditor

Versus

TURTLE BOOK PRIVATE LIMITED
Having registered office at:
Flat No. – 103/3, M Con circus,
New Delhi - 110001

...Respondent/ Corporate Debtor

FOR THE APPLICANT **:** Mr. Argon Hangar, Adv.
FOR THE RESPONDENT **:** Mr. Sarah Kaila, Adv.
Mr. Siddhartha Tandon, Adv.

ORDER

Per-Dr. Deepti Mukesh, Member (Judicial)

1. The Present Application is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'code') read with Rules 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), 2016 (for brevity 'the Rules') by Mr. Satyam Roy Gupta being the Legal officer of TCI Express Ltd. (for brevity 'Applicant') authorized vide board resolution dated 04.11.2019 and Letter of authorization dated 16.03.2020 with a prayer to initiate the Corporate Insolvency process against Turtle Book Pvt. Ltd. (for brevity ('Corporate Debtor').

2. The Applicant is a company limited by shares incorporated on 10.11.2008 bearing CIN No. L62200TG2008PLC061781 under the provision of Companies Act 1956. The applicant has its registered office at Flat No. 306 & 307, 1-8-271 to 273, 3rd floor Ashoka Bhoopal Chambers, S.P. road Secunderabad Hyderabad, Telangana-500003 and also at TCI House, 69 institutional Area, Sector -32, Gurugram – 122001, Haryana, India. The authorized share capital is Rs. 10,00,00,000/- issued, subscribed and paid up capital is Rs.7,68,69,050/-. The applicant is a leading logistics solutions provider and a pioneer in the sphere of transportation in India.

3. The Corporate Debtor is a company limited by shares, registered with Registrar of Companies, Delhi, incorporated on 29.04.2016 under the provisions of Companies Act, 2013 bearing CIN-U22100DLPTC298730 with its registered office at Flat No. 103/3 M Con Circus Delhi, South Delhi DL 110001 IN and having registered email address sukumarpm@tuttlcpub.in. The Authorized Share Capital of the company is 2,00,000/- and the paid up capital is Rs.1, 00,000/-.

4. It is submitted that the corporate debtor approached the applicant for transportation of its various consignments which were duly fulfilled by the applicant and accordingly various invoices were raised. The said invoices were duly accepted by the corporate debtor and no dispute was raised qua the invoices or the services rendered by the applicant. The applicant maintained a running account of the corporate debtor in its books and as per the ledger accounts an amount of Rs. 3,52,982/- is outstanding and payable.

5. The applicant submits that various requests through email correspondence to clear the outstanding debt were sent to the corporate debtor. However, inspite of repeated requests and reminders to clear the outstanding dues the corporate debtor did not pay the outstanding amount on one pretext or the other. The amount remained due and outstanding along with interest at the rate of 24% per annum.

6. The applicant sent demand notice under Section 8 of the code on 20.11.2019 calling upon the corporate debtor to pay the total amount of Rs.3,53,982/. The applicant further submits that the said notice had been duly served upon at the registered office of the corporate debtor as well at the address of the Directors of the corporate debtor at Ghaziabad and New Delhi. The Copy of postal receipts and its tracking report of the said notice have been annexed herein.

7. The corporate debtor never replied to the said notice. Therefore, the Applicant filed the present Application under section 9 of IBC, 2016 and served the copy of the application which was duly delivered to the Corporate Debtor as per service affidavit through speed post and via email on 23.11.2020.

8. As per Form V, the total debt outstanding is Rs.3,53,983 /- (Rupees Three Lakh Fifty Three Thousand Nine Hundred and Eighty Three only) along with interest to be calculated at the rate 24% till date of realization which is due and payable by the corporate debtor to the applicant.

9. During the hearing on 16.12.2020, it was submitted on behalf of the corporate debtor that an application bearing no. IB /3110/2019 seeking CIRP against itself under Section 10 of the code has been field, wherein the claim of the present applicant of Rs. 3.5 Lakhs/- has been admitted.

10. The date of default is 06.03.2019 and the present application is filed on 16.03.2020. Hence the application is not time barred and filed within the period of limitation.

11. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.

12. The Applicant has filed an affidavit in compliance of section 9(3)(b).

13. The present application is filed on the Performa prescribed under Rule 6 of the Insolvency and Bankruptcy Code, 2016 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 r/w Section 9 of the code and is complete.

14. Considering the documents on records and submissions made, it is clear that the default has occurred and the debt is due and payable. Further, the present application has remained uncontroverted with respect to the claim of the applicant. On the contrary, the corporate debtor in its Section 10 application itself admitted the claim of the present applicant of Rs 3.5 Lakh which is recorded vide order dated 16.12.2020. Hence the application

deserves to be admitted and the applicant is entitled to claim the admitted amount which is still outstanding and has remained unpaid till date. Therefore the applicant is admitted.

15. In view of the above discussion, application is admitted the applicant has not name any IRP hence the court appoints, Mr. Rajesh Ramnani having email id: rajeshramnani247@gmail.com and mobile no. 9811377475 and registration no. IBBI/IPA-002/IP-N00993/2020-2021/13187 as the Interim Resolution Professional, subject to the condition that no disciplinary proceedings are pending against him. The IRP is required to file consent Form-2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule 2016 and make disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016, within a period of one week from this order.

16. 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 corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

17. We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Rajesh Ramnani to meet out the expenses and perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the applicant. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the applicant.

18. A copy of the order shall be communicated to the Applicant and the Corporate Debtor by the Registry. The said order shall be communicated to the IRP above named and intimate of the said appointment by the Registry. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. In addition, a copy of said order shall also be forwarded to IBBI for its records and to ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-	**Sd/-**
SUMITA PURKAYASTHA	**DR. DEEPTI MUKESH**
MEMBER (T)	**MEMBER (J)**