

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATHI BENCH**

PRESENT: HON'BLE JANAB MOHAMMED AJMAL - MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.08.2019 AT 10.30 AM

TRANSFER PETITION NO.	TCP NO. 79/9/AMR/TP/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 32/9/HDB/2018
NAME OF THE COMPANY	Kei-Rsos Maritime Ltd
NAME OF THE PETITIONER(S)	Docking And Engineering Co (VSP) Pvt Ltd
NAME OF THE RESPONDENT(S)	Kei-Rsos Maritime Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

C.P. is admitted. CIRP ordered.


MEMBER JUDICIAL

GS

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

*** **

**TCP (IB) No. 79/9/AMR/2019
[CP (IB) No. 32/9/HDB/2019]**

**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 KEI-RSOS MARITIME LIMITED

Between

M/s Docking and Engineering Co. (VSP) Private Limited
24-4-9, Harbour Road,
Visakhapatnam – 530 001,
Andhra Pradesh.

... Petitioner/Operational Creditor

and

M/s KEI-RSOS Maritime Limited
D.No.70-17A/2/9B, Sasikanth Nagar,
Kakinada – 533 003,
Andhra Pradesh.

... Respondent/Corporate Debtor

Date of Order: 28.08.2019

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Appearance:

For Petitioner/Operational Creditor: Mr. Saurabh Upadhyay, Advocate.

For Respondent/Corporate Debtor: Mr. K. Rama Srinivas, Advocate

ORDER

1. The Company Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the Code for short) to initiate Corporate Insolvency

Handwritten signature and date:
Ajmal
28/8/19

Resolution Process (CIRP) of Respondent for failure of the Respondent in repaying an operational debt of ₹.29,97,910.69 towards principal as on 22.04.2016 and ₹.15,47,018.24 towards interest aggregating to ₹.45,44,928.93.

2. Briefly stated the factual backdrop of the Petition are as follows:

- a) The respondent issued two work orders dated 18.05.2015 amounting to ₹.47,38,985.69 and dated 20.08.2015 amounting to ₹.4,05,148 respectively to the petitioner for carrying out dry dock repair works. Upon completion of the work the petitioner raised invoices No.170001 and 170002 dated 22.04.2016 for the amounts. The respondent except for making a payment of ₹.21,00,000/- by 06.04.2017 did not clear the dues. The petitioner issued a demand notice under Section 8 of the IBC, 2016 in Form 3 on 12.11.2018. The notice served on the respondent on 16.11.2018. The petitioner came up with the present petition on 09.01.2019 without getting a reply from the respondent. He claimed interest at the rate of 18% amounting to ₹.15,47,018.24 indicating the total default to be ₹.45,44,928.93. It has suggested the name of Interim Resolution Professional (IRP) and the proposed IRP Shri Anand Chandra Swain has given his consent for appointment. No disciplinary proceedings is pending against him and his name is reflected in IBBI website.
- b) The Respondent in its counter admitted that it had placed orders for execution of the work and the charges therefor levied by the respondent. It admitted the claim and part payment of ₹.21,00,000. The claim of 18% interest over the balance amount of ₹.29,97,910 is disputed on the ground that the term 'operational debt' does

AN
28/12/19

include any interest component. Besides, some objection is also taken to the quality and extent of work executed by the petitioner.


3. During the hearing the learned Counsel for the respondent sought some time to report if the respondent would like to settle as the original claim amount was not in dispute. However, he later reported that the respondent was not in a position to settle since it had other liabilities. The debt is admitted notwithstanding the dispute as to the interest claimed. Admittedly debt claimed in the petition is an unpaid operational debt. The petition filed under Section 9(2) of IBC is complete in all respects. Since the debt is admitted, this Authority has no hesitation in admitting the petition. Hence ordered.

ORDER

- i. The Corporate Insolvency Resolution Process of the respondent shall commence from this date and shall be completed within 330 days hence.
- ii. Shri Anand Chandra Swain (Registration No. IBBI/PA-002/IP-N00162/2017-2018/10431), having office at Expo Tower, 4th Floor, Plot No.1307, Nandankanan Road, P.O: KIIT, Bhubaneswar – 751 024, Khurda, Odisha; e-mail ID: anand.swain2@gmail.com and anandswain@rediffmail.com; Mobile No. 94370 20816; 93381 04142 is appointed as the Interim Resolution Professional (IRP).
- iii. He is directed to take charge of the Respondent/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of IBC and Rules made thereunder.

Handwritten signature and date:
28/8/19

- iv. Moratorium in respect of the respondent is hereby declared under Section 14 of the IBC.
- v. The directors, Promoters or any other person associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 and for effectively discharging his functions under the IBC.
- vi. The Registry is directed to communicate the order to the Petitioner/Operational Creditor and the Respondent/Corporate Debtor.
- vii. The petitioner/OC and the Registry are also directed to send the copy of this order to IRP for necessary compliance.


(MOHAMMED AJMAL)
MEMBER JUDICIAL