

NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
SPECIAL BENCH (COURT -II)

(IB)-2334(ND)2019

IN THE MATTER OF:

M/s Surat Goods Transport Pvt. Ltd
Viraj Impex House
47, P.D. Mello Road
Mumbai-400009

...Operational Creditor

VERSUS

M/s Trading Engineers (International) Ltd.
806, Devika Tower 6
Nehru Place, New Delhi-110019

... Corporate Debtor

Section: 9 of IBC, 2016

Order Delivered on: 17.12.2019

CORAM:

CH. MOHD. SHARIEF TARIQ, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)


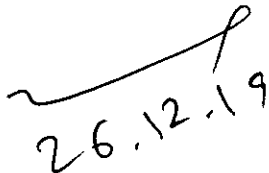
PRESENT:

For the Petitioner : Mr. Amrendra Kumar Jha, Advocate

For the Respondent : None

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26.12.19


ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

The present petition is filed under Section 9 of the 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 Surat Goods Transport Pvt. Ltd. (for brevity 'Operational Creditor') through its authorized representative Mr. Kapil Dev Singh, who is duly authorized vide their Board's Resolution dated 03.06.2019, with a prayer to initiate the Corporate Insolvency process against M/s Trading Engineers (International) Ltd. (for brevity 'Corporate Debtor').

2. The Operational Creditor namely, M/s Surat Goods Transport Pvt. Ltd. is a Company incorporated under the provisions of Companies Act, 1956 with CIN No. U99999MH1977PTC020049, having its registered office at Viraj Impex House 3rd Floor 47 PD Mello Road Mumbai-400009.

3. The Corporate Debtor namely, M/s Trading Engineers (International) Ltd. is a Company incorporated on 22.11.1972 under the provisions of Companies Act, 2013 with CIN No. U74899DL1972PLC108312, having its registered Office 806, Devika Tower 6, Nehru Place, New Delhi-110019.



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4. The Authorised Share Capital of the Respondent Company is Rs.3,50,00,000 and Paid-up Share Capital of the Company is Rs.3,02,08,690 as per the Master Data of the Company annexed.

5. It is the Operational Creditor's case that they had supplied transportation facilities for various consignments of the Corporate Debtor. It is submitted by them that the invoices were delivered and the same were accepted by the Corporate Debtor. They have further averred that the total amount claimed under the invoices is for a sum of Rs1.35,037/- excluding interest @ 18 % per annum. The details of the invoices as provided by Operational Creditor are reproduced below:

DATE	INVOICE NO.	AMOUNT
10.03.2016	BL/213/1516/01233	Rs.44,500
18.03.2016	BL/213/1516/01278	Rs.74,500
31.03.2016	BL/213/1516/01363	Rs.6,000
31.03.2016	BL/213/1516/01364	Rs. 8,200
12.05.2016	BL/213/1617/00012	Rs.8000
10.03.2016	BL/213/1516/01234	Rs.8400
10.03.2016	BL/213/1516/01235	Rs.77,000
12.03.2016	BL/213/1516/01238	Rs.10,500
10.03.2016	BL/213/1516/01280	Rs.9,000
23.03.2016	BL/213/1516/01288	Rs. 25,000
28.03.2016	BL/213/1516/01307	Rs. 21,000
26.04.2016	BL/213/1617/00003	Rs. 23,500

6. As per the Ledger Account Annexed by the Petitioner, the last payment received by them was of Rs.25,000 on 30.12.2017.



7. It is stated by the Operational Creditor that since the Corporate Debtor had failed to liquidate its dues, it had sent a Demand Notice dated 24.07.2019, under Section 8 of IBC 2016 on 25.07.2019 by Registered Post. It is submitted by the Operational Creditor that the Demand Notice was served through Speed Post on 29.07.2019.

8. That the Operational Creditor in their Affidavit filed under Section 9(3)(b) of IBC, 2016 has made a specific averment regarding non-receipt of Notice of any dispute issued by the Corporate Debtor. Further, the Operational Creditor has annexed bank statement issued by the HDFC Bank in compliance of Section 9(3) (c) of IBC, 2016 by way of an additional affidavit filed on 11.12.2019.

9. As none appeared on behalf of the Corporate Debtor Company during the proceedings, the Corporate Debtor was proceeded ex-parte vide Order dated 08.11.2019 passed by this Tribunal.

10. In the given facts and circumstances, the present petition being complete and establishing the default in payment of the operational debt beyond doubt, the Petitioner is entitled to claim its dues. The amount of default being above Rs.1,00,000 for the invoices, the Petition is admitted in terms of Section 9(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence



of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

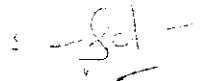
- “(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate 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 Securitisation 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.”

11. The Operational Creditor has not proposed the name of any IRP. Therefore, this Bench based on the list furnished by IBBI, appoints Sh. Kanti Mohan Rustagi as an IRP, having email id- kanti.rustagi@patanjaliassociates.com (Mobile No. 9871306829) with Registration No. IBBI/IPA-002/IP-N00097/2017-18/10240, subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.



12. The Operational Creditor is directed to deposit Rs.50,000 (Fifty Thousand) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

13. In terms of the above, the Application stands admitted in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of this Order shall be communicated to the Applicant, the Respondent and the IRP mentioned above by the Registry of this Tribunal. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their records.


(L. N. Gupta)
Member (T)


(Ch. Mohd. Sharief Tariq)
Member (J)