

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**NEW DELHI (COURT NO. IV)**

**Company Petition No. IB-2690/ND/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:**

**SYNDICATE STEEL TRADER**

**...Applicant/Operational Creditor**

**VERSUS**

**VGA DEVELOPERS PRIVATE LIMITED**

**...Respondent/ Corporate Debtor**

**Judgment Pronounced on: 06.01.2020**

**CORAM:**

**DR. DEEPTI MUKESH**

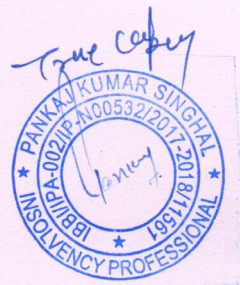
**HON'BLE MEMBER (Judicial)**

**SH. HEMANT KUMAR SARANGI**

**HON'BLE MEMBER (Technical)**

**For the Applicant: Mr. Anshuj Dhingra, Ms. Shubanagda Singh, Advocates**

**For the Respondent: ----**



**MEMO OF PARTIES**

**SYNDICATE STEEL TRADER**

**Registered office at 192, Loha Mandi**

B.S. Road, Ghaziabad

Uttar Pardesh-201009

...Applicant/Operational Creditor

**VERSUS**

**VGA DEVELOPERS PRIVATE LIMITED**

**Registered office at 518, 7<sup>th</sup> Floor, Pearl Omex**

Tower-II, Netaji Subhash Place

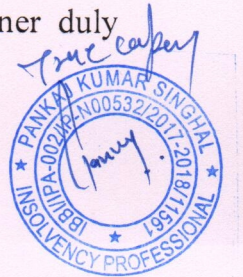
Pitampura, New Delhi-110034

...Respondent/ Corporate Debtor

**ORDER**

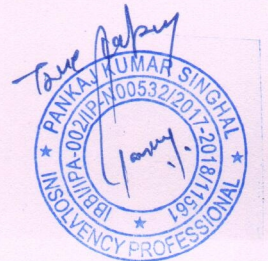
**Per-Dr. Deepti Mukesh, Member (J)**

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 Syndicate Steel Trader through Mr. Rakesh Mohan Singhal who is a partner duly



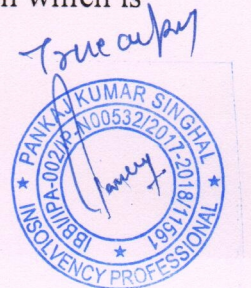
authorized (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against VGA Developers Private Limited (for brevity 'Corporate Debtor').

2. The Applicant is a registered partnership firm and having its office at 192, Loha Mandi, B.S. Road, Ghaziabad, Uttar Pradesh-201009. The Corporate Debtor is a private limited company incorporated under the provisions of Companies Act, 1956 on 11.01.2010, having CIN U45400DL2010PTC197841 and having its registered office at 518, 7<sup>th</sup> Floor, Pearl Omex Tower-II, Netaji Subhash Place Pitampura, New Delhi-110034.
3. The Applicant states that the applicant had supplied M.S. bars/TMT bars to the corporate debtor and had raised invoice dated 30.11.2016 being Invoice No. TI-052 for total value of Rs 13,00,854.00/-.
4. It is submitted by the applicant that several reminders were made to the corporate debtor to clear the overdue payment but no positive response was ever received from the corporate debtor. The applicant further submits that the corporate debtor had thereafter issued cheques totaling to Rs 13,00,854/- against the payments of the due amount payable and had informed the applicant that the same be deposited after the corporate debtor's affirmations. The corporate debtor had never



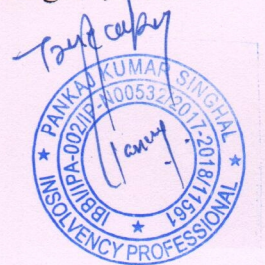
informed the applicant to present the said cheques for encashment and hence the original cheques are still lying with the applicant. Total outstanding amount of Rs 13,00,854 (Rupees Thirteen Lakh Eight Hundred and Fifty-Four Only) along with interest @18% on account of non-payment of the outstanding dues towards the Invoice No. TI 052 issued towards supplies made by the applicant.

5. The Applicant issued a demand notice dated 09.08.2019 in Form 3 under the provisions of section 8 of I&B Code, 2016 (Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 calling upon the corporate debtor to pay the admitted balance outstanding amount of Rs. 13,00,854/-. The said notice was served through speed post as well as through email at its registered address as reflected in MCA website. The tracking report for the speed post reflecting 'door locked' and 'left without instructions'. Email service has not bounced back to the applicant which implies that the notice was duly delivered to the corporate debtor. The corporate debtor has neither replied to the said notice nor made the payment against the outstanding dues claimed by applicant.
6. Hence, the Applicant filed present Application on 09.10.2019 under section 9 of IBC, 2016 and served the copy of this application which is



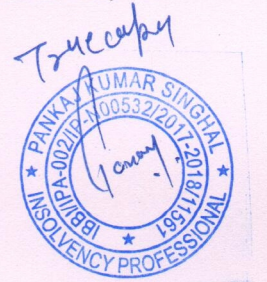
duly delivered to the Corporate Debtor as per the affidavit of service and tracking report filed by the applicant which is reflecting "Item Delivery Confirmed", which has been duly annexed.

7. The Corporate Debtor has neither appeared in the matter nor replied to the application and the matter was proceeded ex parte on 13.12.2019.
8. The Applicant has filed an affidavit under section 9(3)(b) affirming that no notice of dispute has been given by the Corporate debtor relating to dispute of the unpaid operational debt.
9. The application is complete as per the requirements of section 9 of the code. The invoice was raised on 30.11.2016 and the application is filed on 09.10.2019 which is within the period of limitation.
10. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
11. The present application is complete and perusing the documents on records it goes beyond doubt that the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt. In the light of above facts and records the present application is admitted.
12. The Applicant has named the Insolvency Resolution Professional, to be appointed by the order of Tribunal, as Mr. Pankaj Kumar Singhal, with



registration number IBBI/IPA-002/IP-N00532/2017-18/11561 (email – aprassociatesllp@gmail.com) as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Respondent and specific consent is filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 in relation to specifically the corporate debtor and the applicant herein and make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.

13. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Pankaj Kumar Singhal to meet out the expense to 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 Operational Creditor. 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 Operational Creditor.

14. 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 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.
15. In terms of the above order, the Application stands admitted in terms of Section 9(5) of IBC, 2016. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named, by the Registry. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-

**HEMANT KUMAR SARANGI**  
**MEMBER (T)**

sd/-

**DR. DEEPTI MUKESH**  
**MEMBER (J)**

