

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-I**

**CP (IB) NO. 745 of 2020**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016

In the matter of

**Virendra K Pawar**

**Proprietor of Shree Electricals Enterprises**

Having its Registered Office at –

Shop No. 4, MHADA Mini Commercial Complex, Opposite  
Tridal Nagar Housing Society, Yerwada, District Pune, 411006

**... Operational Creditor/Petitioner**

Versus

**Creatoz Builders Private Limited**

**CIN: U54200MH2005PTC157510**

Having its Registered Office at –

Shop-3, Prathamesh CHS Ltd, Bldg 0.16-A New MHADA  
Colony, Mahakali Caves Road, Andheri East, Mumbai,  
Maharashtra, India, 400093

Also at :

Unit No. 8, Abhishek Premises CSL, Dalia Industrial Estate,  
Off. New Link Road, Andheri (West) Mumbai, Maharashtra,  
India, 400058

Also at :

CAPRI, 1<sup>st</sup> Floor, Anant Kanekar Marg,  
Station Road, Bandra (E),  
Mumbai - 400051

**...Corporate Debtor/Respondent**

***Order Delivered On : 21.11.2023***

*Coram:*

**Hon'ble Member (Judicial) : SH. JUSTICE VIRENDRASINGH G BISHT (RETD.)**

**Hon'ble Member (Technical): SH. PRABHAT KUMAR**

*Appearances:*

For the Operational Creditor : Mr. Onkar Deshpande, Advocate

**ORDER**

*Per: Prabhat Kumar, Member (Technical)*

1. This Company Petition is filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **Virendra Krishna Pawar ("Operational Creditor /Petitioner")**, seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against **Creatoz Builders Private Limited ("Corporate Debtor/ Respondent")**.
2. The Respondent was incorporated on 23.11.2005 under the Companies Act, 1956. Its Corporate Identity Number ("**CIN**") is U54200MH2005PTC157510. Its registered office is at Shop-3, Prathamesh CHS Ltd, Bldg 0.16-A New MHADA Colony, Mahakali Caves Road, Andheri East, Mumbai, Maharashtra, India, 400093. Therefore, this Bench has jurisdiction to entertain and decide the Petition.

**Brief Facts of the case:**

3. The Corporate Debtor, Creatoz Builders Private Limited is in the business of works contracts and the Operational Creditor is a licensed electrical contractor, providing electrical works for commercial and residential buildings.
4. The Respondent availed services of the Operational Creditor for various buildings at its residential project "Jade Residences" being constructed at Wagholi, Pune. The Corporate Debtor placed various work orders with the Operational Creditor for the same, which were amended from time to time. These work orders are placed on record as 'Exhibit-A' of the Petition.

5. Accordingly, the Operational Creditor provided services to the Respondent and raised various invoices from time to time. The Petitioner submits that these RA Bills have been submitted to the Corporate Debtor after preparation of measure sheet, approval and certification by the Corporate Debtor. The invoices are placed on record as 'Exhibit-B' of the Petition.
6. The Petitioner submits that the services were provided to the Respondent and the said services were utilised by the Respondent without raising any dispute or demur and neither has the Respondent raised any grievance about the services rendered in that regard to the Petitioner.
7. The Petitioner submits that the representative of the Corporate Debtor, P. Vijay Sarathy Guptha has acknowledged and certified vide Completion Certificate dated 23.12.2018 that the Operational Creditor has completed all Internal Electrification, Meter Room & LV Wiring, Lift work, Booster Pump Room wiring and Miscellaneous work of the Jade Residences Project satisfactorily and in stipulated period. The Certificate also states that the total value of the work done by the Operational Creditor is Rs. 5,90,93,000/- (Rupees Five Crores, Ninety Lakhs and Ninety Three Thousand Only). The said Certificate is placed as 'Exhibit C', at Page 120 of the Petition. However, the Respondent has failed to pay the outstanding amount in terms of the invoices and the refund of retention money due.
8. The Petitioner submits that the total amount of debt claimed to be default is Rs.86,42,294/- (Rupees Eighty Six Lakhs, Forty Two Thousand, Two Hundred and Ninety Four Only) comprising of Rs.59,70,883/- (Rupees Fifty Nine Lakhs Seventy Thousand Eight Hundred and Eighty Three Only) which is inclusive of outstanding amount towards invoices raised upon completion of work along with Rs.26,71,411/- (Rupees Twenty Six Lakhs Seventy One Thousand Four Hundred and Eleven) towards the repayment of retention money deducted from running bills which have now become payable upon completion of 12 months period from the date of completion of work as per terms of contract. The Particulars of Claim are annexed as 'Annexure II and III' of the Petition at page 15 and 16.

9. The Petitioner submits that they sent various e-mails to the Corporate Debtor regarding the payment of outstanding dues but to no avail.
10. The Petitioner submits that they also sent a legal notice dated 18.03.2019 to the Corporate Debtor demanding payment of the legal debt due through their advocate.
11. The Petitioner on realising that Respondent was unable/incapable of paying to the Petitioner, served upon the Respondent Demand Notice dated 16.10.2019 in Form 3 under section 8 of the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 which was duly received by speed post by the Respondent. The Respondent has failed to reply to the Demand Notice.
12. The date of default is taken to be 31.05.2018 as it is the due date of the first invoice dated 01.05.2018 raised by the Petitioner on the Respondent.
13. The Petitioner in support of its claim has placed on record the following documents:-
  - i. Work Orders and Invoices/RA Bills
  - ii. Ledger Account Statement

**Findings**

14. We have heard the submissions of the Petitioner and perused the records.
15. This Tribunal, vide Order dated 28.07.2023 held that the Service of Notice to the Corporate debtor was sufficient. The Order further recorded that despite the Service of Notice, the Corporate Debtor chose not to appear before the Bench and hence the Corporate Debtor was set *ex parte*.
16. This matter has been listed twice before the Present Bench and on both occasions, the Corporate debtor was not present.
17. From the documents placed on record by the Petitioner, it is evident that there was debt due and payable by the respondent.

18. In the backdrop of above facts and circumstances, we are of the view that the Respondent has defaulted in the payment of the outstanding debt. Further, as envisaged under section 9(3)(b) of the Code, an affidavit has also been filed by the Petitioner. Also, as per the available record, it is apparent that the Respondent had never raised any dispute with respect to the services of the Petitioner.
19. This application was filed on 12.02.2020 and as submitted by Petitioner the date of default is 31.05.2018. Hence, the application falls within the limitation period of three years.
20. The application made by the Petitioner is complete in all respects as required by law. It clearly shows that the Respondent is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Debtor.
21. The Petition bearing CP (IB) 745 of 2020 filed by **Virendra Krishna Pawar**, the Operational Creditor, under section 9 of the IBC read with Rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Creatoz Builders Private Limited**, the Corporate Debtor, is admitted.
22. There shall be a moratorium under Section 14 of the IBC, in regard to the following:
- i. 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;
  - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - iii. 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 (SARFAESI) Act, 2002;
- iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
23. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
  - ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
24. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
25. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
26. Mr. Charudutt Pandhrinath Marathe, Registration No. IBBI/IPA-001/IP-P00350/2017-2018/10651, Email Id: charuduttm@yahoo.co.in, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
27. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their

possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

28. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses shall be treated as interim advance to fund the CIRP cost which shall be subject to approval by the Committee of Creditors (CoC). However, it is clarified that this amount shall be treated as interim finance for treatment under CIRP.
29. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
30. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within **seven days** from the date of receipt of a copy of this order.
31. Ordered accordingly.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

/SP/

Sd/-

**VIRENDRASINGH G. BISHT**  
**MEMBER (JUDICIAL)**