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IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (IB) No. 520/KB/2019

IN THE MATTER OF:

An application 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;

And

IN THE MATTER OF:

Comnet Resources (P) Ltd., having its registered office at Sector-B, P-88, Metropolitan Co-Operative Housing Society Limited, Kolkata - 700105, within the aforesaid jurisdiction.

........Operational Creditor / Applicant

And

IN THE MATTER OF:

Robotics Infratech Pvt. Ltd, a company duly within the meaning of the Companies Act, 2013, having its registered office at 6A, Lala Lajpat Rai Sarani, Kolkata - 700 020, within the aforesaid jurisdiction;

....Corporate Debtor / Respondent

CORAM:

Shri M. B. Gosavi., Member (Judicial)
Shri V.K. Gupta, Member (Technical)

COUNSELS ON RECORD:

1. Mr. Joydeep Banerjeel, Advocate }.... For the Respondent
2. Mrs. Marja Agarwal, Advocate }.....For the Petitioner
3. Mr. Bajrang Manat, Advocate

Date of hearing: 20.02.2020

Date of pronouncement of order: 25.02.2020

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Sd

ORDER

Per V.K. Gupta, Member (Technical)

This petition has been filed under Section 9 of Insolvency and Bankruptcy Code 2016, read with Rule 6 of the Insolvency and Bankruptcy (application to adjudicating authority) Rules, 2016 by the Operational Creditor namely Comnet Resources (P) Ltd. to initiate Corporate Insolvency Resolution Process against the Corporate Debtor namely Robotics Infratech Pvt. Ltd.

2. The facts, in brief, are that the Operational Creditor supplied goods to the Corporate Debtor in Financial Year 2016-17 and 2017-18. Some part payments were made, however, the rest amount remained unpaid.

3. The Ld. Counsel for the Operational Creditor drew our attention to the relevant copies of the invoices and other documents to substantiate its claims. Our attention was also drawn to the copies of the cheques which were given by Corporate Debtor. It was also contended that notice under Section 8 was duly served and our attention was also drawn to page 53 of paper book to show the delivery of the same on the Corporate Debtor. It was also submitted that affidavit under Section 9 (3) (b) of IBC, 2016 had also been submitted.

4. The Ld. Counsel appearing for the Corporate Debtor raised technical points and issue of difference in the rate of interest claimed and charged in the application as against what was agreed upon between the parties However, on a specific query whether in spite of considering of its such contention, the undisputed amount of debt which was due and payable was more than one lakh or not. The Ld. Counsel had no option but to accept the fact that undisputed debt would be more than this amount. As regards, other technical

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objections taken by him, we do not find any merit, hence, rejected. The contention of the Corporate Debtor that charging of different rate of interest other than as agreed amounted to dispute is also rejected for the reason that even after considering lesser amount of interest the principal amount as well as interest at the reduced rate would still be higher than minimum threshold limit of Rupees one lakh as provided in Section 4 of IBC, 2016.

5. The application is otherwise complete, defect free and complies with the requirements of IBC, 2016.

6. The name of IRP has not been proposed as it is not mandatory in case of application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016. We shall appoint an IRP who is in the approved panel maintained by IBBI. In case such person refuses to act as such, then, another person would be appointed in place thereof.

7. In the result, this application stands admitted and we order as under:

ORDER

i. The application filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, Robotics Infratech Pvt. Ltd, is hereby admitted.

ii. We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.

iii. Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

Sd/- Sd/-

iv. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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 Securitization and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 2002 (54 of 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.

v. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.

vi. The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any Operational sector regulator.

vii. The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.

viii. Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

ix. Necessary public announcement as per Section 15 of the IBC, 2016 may be made.

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x. Mr. Birendra Kumar Tripathi, IP Registration No. IBBI/IPA-003/IP-N00229/2019-2020/12679 E-mail ID: bkt9000@gmail.com is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

xi. The Operational Creditor to pay sum of Rs. 50,000/-(Rupees Fifty Thousand only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill. In case further funds are required during Corporate Insolvency Resolution Process and if not provided by Committee of Creditors then IRP/RP can approach this Tribunal for that purpose.

xii. The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xiii. Registry is hereby directed under section 7(7) of the I.B.Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

8. List the matter on **13/04/2020** for the filing of the progress report.

9. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd/- 25/2/20 | Sd/- 25/2/2020
(V.K. Gupta) | **(M.B. Gosavi)**
Member (Technical) | **Member (Judicial)**

Signed on this, the 25th day of February, 2020.

M_Jana_Steno.