

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

C.P. No. 478/IBC/MB/2019

Under Section 9 of the Insolvency and
Bankruptcy Code, 2016
In the matter of

**M/s. GLOBAL EXPRESS
MULTILOGISTICS PVT. LTD.**

CIN: U74999MH2014PTC255397

Having Address at:

C/12, Neelkanth Corner, 1st floor, Plot
No. 2, Section no. 2, Sanpada (East),
Navi Mumbai 400 706.

... Operational Creditor/Petitioner

Vs

STONE EXPORTS HOUSE PVT. LTD.

(CIN: U74999MH2013PTC250035)

Registered office at: 409/410, 4th floor,
Hubtown Viva, Akruti Trade Point,
Shankarwadi, W. E. Highway,
Jogeshwari (E), Mumbai- 400 060.

..... Corporate Debtor

Order delivered on: 05.12.2023

Coram:

Hon'ble Justice (Retd.) Sh. Virendrasingh Bisht, Member (Judicial)

Hon'ble Shri Prabhat Kumar, Member (Technical)

Appearance :-

For the Operational Creditor : Mr. Ajinkya Kurudkar, Advocate

For the Corporate Debtor : None present

[Per: Justice (Retd.) V. G. Bisht, Member (J)]

1. This is an application filed by Operational Creditor/Applicant under section 9 of the Insolvency &

Bankruptcy Code, 2016 (hereinafter referred as “IB Code” for short) against Corporate Debtor/Respondent, for initiating Corporate Insolvency Resolution Process (“CIRP” for short).

Brief facts:-

2. The Operational Creditor provided services to the Corporate Debtor since 2016 for custom clearances, transportation and freight forwarding services in respect of export shipment of Creditor Debtors goods/on regular basis for which Operational Creditor had to issue invoices and Corporate Debtor accepted the invoice without any disputes. In all 30 numbers of invoices are outstanding for the period between March, 2017 to November, 2017 aggregating to Rs. 50,81,936/-. Since, the said amount was not paid despite personal calls and the request, the Operational Creditor issued legal notice dated 09.01.2018. The Corporate Debtor failed and neglected to comply the same. The Operational Creditor again sent a notice as per Form 4 of the IBC, 2016 on 30.06.2018, which was received by the Corporate Debtor. However, the Corporate Debtor replied the said notice with general denials and excuses. Therefore, the Operational Creditor claims Rs. 50,81,936/- plus interest of Rs. 13,16,823/- aggregating to Rs. 63,98,759/- from the Corporate Debtor.
3. From the record it reveals that Corporate Debtor though duly served, failed to file its affidavit in reply and therefore has been proceeded ex-parte.

4. The Corporate Debtor has placed on record outstanding invoices from 20.02.2017 to 23.10.2027 (Exhibit I-1 to I-30) amounting to Rs. 50,81,936/-.
5. From the above documentary evidence, it is more than clear that Corporate Debtor has committed default in payment of invoice amount totaling Rs. 63,98,759/- and despite notices (Exhibit- 'N' & 'O') failed to comply the same.
6. We have perused the reply of the Corporate Debtor (Exhibit- 'P') dated 21.07.2018. There are general denials and rather the case of counter claim has been set up by the Corporate Debtor.
7. It is pertinent to note here that except the said reply there is nothing on record to substantiate or support the contention raised in the reply or the counter claim by the Corporate Debtor.
8. We are, therefore, at loss of words to understand how the claim of the Operational Creditor is false and rather the counter claim set up by the Corporate Debtor is correct. The Corporate has not furnished any evidence to prove the allegation of excess charge. Further, the Corporate Debtor despite having ample opportunities failed to appear before the Bench to substantiate and establish his version of claim as put forth by it in its reply notice dated 21.07.2018 (Exhibit-P).
9. We are, therefore, of the considered view that present petition under section 9 of the code filed by the operational creditor to initiate CIRP in the matter of the corporate

debtor deserves consideration and accordingly stands **admitted** under section 9(5)(I) of the I & B Code.

10. Hence, we pass the following order.

ORDER

This Application being C.P.(IB) No. 478/2019 filed under Section 9 of the I & B Code, 2016, filed by **M/s. GLOBAL EXPRESS MULTIOLOGISTICS PVT. LTD.**, Operational Creditor/applicant against **STONE EXPORTS HOUSE PVT. LTD.** Corporate Debtor for initiating Corporate Insolvency Resolution Process is **admitted**. We further declare moratorium u/s 14 of I & B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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;

- d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.
- II. That 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.
- III. That the provisions of sub-section (1) of Section 14 of I & B Code shall not apply to
- a. Such transactions as may be notified by the Central Government in consultation with any operational sector regulator;
 - b. A surety in a contract of guarantee to a corporate debtor.
- IV. That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I & B Code or passes an order for the liquidation of the corporate debtor under section 33 of I & B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of I & B Code.
- VI. That this Bench hereby appoints **Mr. Pravin R. Navandar**, a registered insolvency resolution

professional having **Registration number- IBBI/IPA-001/IP-P00008/2016-2017/10027** and Email ID- pravin@prnco.in as Interim Resolution Professional to carry out the functions as mentioned under I & B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

- VII. The operational creditor shall deposit a Sum of Rs. 5,00,000/- (Rupees Five Lakh only) with the IRP to meet the initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims. The amount so deposited shall be interim finance and paid back to the applicant on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC). The Remuneration of Interim Resolution Professional shall be Rs. 1,00,000/- p.m. till the constitution of CoC and decision of CoC in relation to remuneration of IRP/RP, in case it is not fixed by the operational creditor so far.
- VIII. A copy of this order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the corporate debtor.
- IX. The Registry is directed to immediately communicate this order to the operational creditor, the corporate debtor and the interim resolution professional even by way of email or

WhatsApp. **Compliance report of the order by
Designated Registrar is to be submitted today.**

**Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)**

**Sd/-
JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

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