

IB-946/ND/2019

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-946/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:

MR. SAHIL GARG & Ors

...Applicant/Operational Creditor

VERSUS

WAVE GLOBAL EDUCATIONAL SERVICE PRIVATE LIMITED

...Respondent/ Corporate Debtor

Judgment Pronounced on:18.11.2019

CORAM:

DR. DEEPTI MUKESH

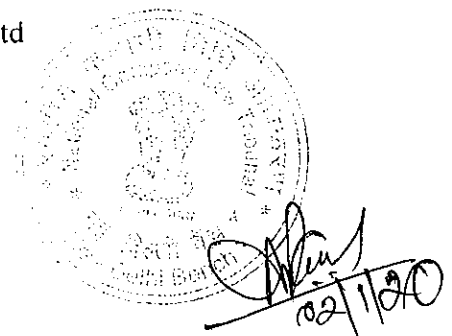
HON'BLE MEMBER (Judicial)

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



02/11/2019

MEMO OF PARTIES

Mr. Sahil Garg

Resident of H No. 252/8, Ward No. 12

Near Radha Krishna Mandir Ladwa

District Kurukshetra, Haryana-136132

...Applicant no. 1/Operational Creditor

Mr. Debpratim Maji

Resident of Teli Para, Sitla (Village)

Asansol District West Burdwan

West Benagl-713302

...Applicant no. 2/Operational Creditor

Mr. Yogendra Singh Yadav

Resident of Behind Sindhi Colony

Chiragaon, Jhansi

Uttar Pradesh-284301

...Applicant no. 3/Operational Creditor

Mr. Shailendra Kumart Gaur

Resident of P.O. Kumhariya, Village Kumharia

Tehsil- Moth (Jansi)

Uttar Pradesh-284303

...Applicant no. 4/Operational Creditor

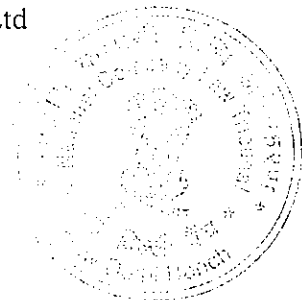
IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



VERSUS**WAVE GLOBAL EDUCATIONAL SERVICE PRIVATE LIMITED****Registered office at Plot No. 6 S/F Left Side Sector-5****H.L. Care MLU Dwarka****New Delhi-110075****...Respondent/ Corporate Debtor****For the Applicant:** Mr. Vivek Jaiswal, Advocate**For the Respondent: ----***IB-946/ND/2019*

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



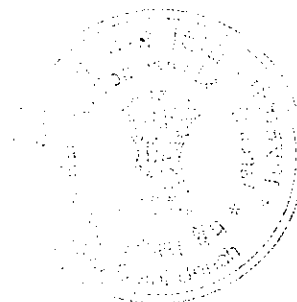
ORDER

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 Mr. Sahil Garg & Ors. (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against Wave Global Educational Service Private Limited (for brevity 'Corporate Debtor').
2. The Applicants were appointed as teaching staff at the coaching center at Rohtak, Haryana of the corporate debtor. The Corporate Debtor is a private limited company, incorporated under the provisions of Companies Act, 1956 on 12.07.2016 bearing CIN U74999DL2016PTC302924 and having Authorized Share Capital of Rs.5,00,000/- and Paid Up Share Capital is Rs. 1,38,890/- as per Master Data of the company. The registered office of the corporate debtor is situated at Plot No. 6 S/F Left Side Sector-5 H.L. Care MLU Dwarka, New Delhi-110075.

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



3. The Applicants had stated that in the month of August 2018, the corporate debtor was looking for appointing new teaching staff in its coaching center at Rohtak, Haryana. The corporate debtor started recruitment drive for corporate debtor new centers. The corporate debtor shortlisted the applicants for the various posts of teaching staff after interviewing them. The applicant and the corporate debtor had executed MoU dated 10.08.2018, of contractual appointments.
4. It is submitted by the Applicants that the corporate debtor asked the applicants to join their coaching center at Rohtak, Haryana as teaching staff fixing their monthly salary, details of which are as under:

Sl. No.	Name	Date of Joining	Salary	Outstanding Salary as On Date
1.	Mr. Sahil Garg	05.08.2018	Rs 60,000/- PM	Rs 1,85,225/-
2.	Mr. Debpratim Maji	10.08.2018	Rs 50,000/- PM	Rs 1,53,548/-
3.	Mr. Yogendra Singh Yadav	05.08.2018	Not mentioned	Rs 1,54,355/-
4.	Mr. Shailendra Kumar Gaur	05.08.2018	Not mentioned	1,54,355/-

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



5. All the Applicants has submitted that the corporate debtor had defaulted in making payments of salaries of all the applicants from the month of September, 2018 to November, 2018. The corporate debtor is liable to pay a sum of Rs 1,85,225/-, Rs 1,53,548/-, Rs 1,54,355/- and Rs 1,54,355/- (amounts including TDS) towards the salaries for the months of September, October and November, 2018 of Mr. Sahil Garg, Mr. Debpratim Maji, Mr. Yogendra Singh Yadav, Mr. Shailendra Kumar Gaur respectively, which had remained unpaid, total amounting to Rs 7,69,417/- (Rupees Seven Lacs Sixty-Nine Thousand Four Hundred and Seventeen Only) as due and payable.
6. The Applicants issued legal notice dated 26.12.2018 to the corporate debtor with demand of default amount of Rs 7,69,417/- but the corporate debtor failed to pay the said amount.
7. The Applicants issued demand notice dated 16.01.2019 under the provisions of Section 8 of the Insolvency and Bankruptcy Code, 2016 in Form 3 as prescribed under in the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to the Corporate Debtor. The said notice was sent by Speed Post at the registered address of the corporate debtor as well as via email as reflected in the master data, which was duly delivered on the corporate debtor as per the

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd

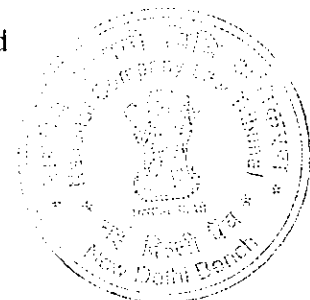


tracking report. The tracking report and the email service report has been duly annexed with the application. The Corporate Debtor has neither raised any dispute to the aforesaid notice nor made any payment towards the outstanding dues.

8. Hence, the Applicant filed present Application on 09.04.2019 under section 9 of IBC, 2016 and served the copy of this application through speed post at the address as reflected on the MCA website, which is also duly delivered to the Corporate Debtor. The affidavit of service is filed along with tracking report sent at the registered address as per master data.
9. The Corporate Debtor has neither filed any reply nor appeared before the bench.
10. As claimed by the applicants as on date, the Corporate Debtor is liable to pay a sum of Rs. 7,69,417/- (Rupees Seven Lacs Sixty-Nine Thousand Four Hundred and Seventeen Only), as per Part IV of Form 5, to the applicants.
11. The Applicants have filed an affidavit under section 9(3)(b) dated 29.01.2019 affirming that no notice of dispute has been given by the Corporate debtor relating to dispute of the unpaid operational debt.

IB-946/ND/2019

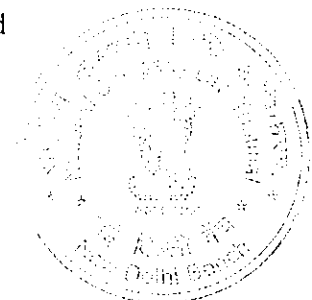
Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



12. The Applicants further states that none appeared on behalf of the corporate debtor nor any reply is filed and the corporate debtor was proceeded ex-parte on 18.10.2019.
13. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
14. The date of default as per Form V occurred from November 2018, hence the debt is not time barred and the application is filed within the period of limitation.
15. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, which remain uncontroverted by the Corporate Debtor, establishing the default in payment of the operational debt beyond doubt. The present application is admitted, in terms of section 9 (5) of IBC, 2016.
16. Since the Applicant has not named the Insolvency Resolution Professional, this Tribunal from the list furnished by Insolvency and Bankruptcy Board of India, appoints Mr. Radhey Shyam Yadav, with registration number IIBI/IPA-001/IP-P-01496/2018-2019/12255 (email- rsyadav01@gmail.com, Mobile No. 9311704731) as the Interim Resolution Professional subject to the condition that no

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd



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 Respondent and the Operational Creditor 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.

17. We direct the Operational Creditors to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Radhey Shyam Yadav 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.
18. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd

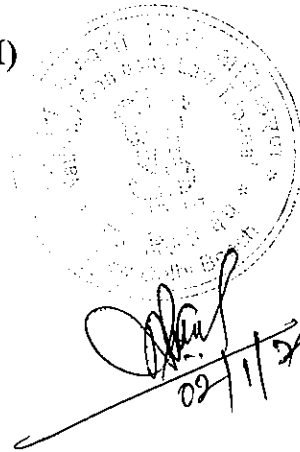


Section 14(1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

19. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book 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)

[Signature] 02/11/2020
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003

IB-946/ND/2019

Mr. Sahil Garg & Ors vs Wave Global Educational Service Pvt Ltd

FREE OF COST COPY