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IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-810/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:

M/s V.R LOGISTICS LIMITED

...Applicant/Operational Creditor

VERSUS

M/s BALWINDRA TOOLS PRIVATE LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 18.09.2019

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant: Mr. Kislaya Mishra, Adv.

For the Respondent:

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MEMO OF PARTIES

M/s V.R LOGISTICS LIMITED

Having its registered office at:
155, Venus House, Street No. 9
Opp, Urban Estate Nursery,
Ludhiana-141010

...Applicant/Operational Creditor

VERSUS

M/s BALWINDRA TOOLS PRIVATE LIMITED

Having its registered office at:
Ground Floor-2247,
Gurunanak Nagar,
New Ranjit Nagar,
New Delhi-110008

...Respondent/ Corporate Debtor

ORDER

PER- SHRI HEMANT KUMAR SARANGI, MEMBER (T)

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

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Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s V.R Logistics Limited (for brevity 'Applicant') through its authorized representative Mr. Arvind Singh authorizing him to file present application vide Board resolution dated 25.02.2019, with a prayer to initiate the Corporate Insolvency Resolution process against M/s Balwindra Tools Private Limited (for brevity 'Respondent').

2. The Applicant, the Operational Creditor namely, M/s V.R Logistics Limited is a company incorporated on 05.04.2005 under the provisions of Companies Act, 1956 with CIN No. U63090PB2005PLC028203, having its registered office at 155, Venus House, Street No. 9, Opp Urban Estate Nursery, Jeevan Nagar, Focal Point, Ludhiana, Punjab-141010.
3. The Respondent, the Corporate Debtor namely M/s Balwindra Tools Private Limited is a company incorporated on 16.04.1996, under the provisions of Companies Act, 1956 with CIN No. U27109DL1996PTC253839, having its registered office at Ground Floor-2247, Gurunanak Nagar, New Ranjit Nagar, New Delhi- 110008.

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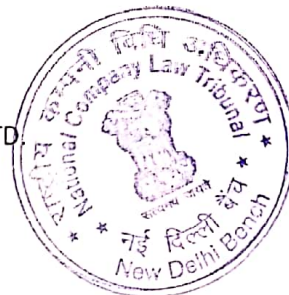


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4. The Authorised Share Capital of the respondent company is Rs. 1,50,00,000/- and Paid Up Share Capital of the company is Rs. 1,47,04,210/- as per Master Data of the company.
5. It is the case of the applicant that Respondent company and the applicant have been in business relationship, wherein the applicant has provided various Logistic Services to the Corporate Debtor. The Applicant supplied the goods as per the orders placed by corporate debtor and raised running invoices against the said services and consequently partial payments used to be credited to the account of the Operational Creditor.
6. The applicant further states that, from 12.04.2016 to 31.03.2017 it raised 56 invoices which were sent to and duly acknowledged by the Corporate Debtor. The respondent time and again has made partial payments; the last payment made by him in lieu of the said invoices issued was on 13.07.2018.
7. It is stated by the applicant that as on date, it has provided services worth Rs. 27,90,742/- out of the said amount the respondent has paid only a sum of Rs. 15,97,161,

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8. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 03.12.2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the balance outstanding payment of Rs. 11,93,581/- (Rupees Eleven Lakhs Ninety Three Thousand Five Hundred Eighty Only), being the principal amount with interest of Rs. 78,744/- (Rupees Seventy Eight Thousand Seven Hundred Fourty Four Only) at the rate of 14% per annum, the total amount being Rs. 12,72,325/- (Rupees Twelve Lakhs Seventy Two Thousand Three Hundred Twenty Five Only), within 10 days from receipt of the notice, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.
9. The applicant has filed affidavit of service and annexed postal receipts along with the tracking report of service of section 8 notice, showing the delivery status as "Item Delivered". The applicant has also filed proof of service through email on the

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registered email id, available on the MCA master data of the company.

10. Despite the demand notice sent under Section 8 of the Code, the Respondent has failed to pay the amount demanded and has neither raised any notice of dispute nor replied to the said notice, hence this application, seeking to unfold the process of CIRP.
11. The applicant has stated that total debt due and payable is Rs. 12,72,325/- (Rupees Twelve Lakhs Seventy Two Thousand Three Hundred Twenty Five Only), Rs. 11,93,581/- (Rupees Eleven Lakhs Ninety Three Thousand Five Hundred Eighty Only) being the principal outstanding amount, along with interest of Rs. 78,744/- (Rupees Seventy Eight Thousand Seven Hundred Fourty Four Only), at the rate of 14% per annum.
12. The application under section 9 of the IBC, 2016 was filed by the applicant to initiate CIRP. The applicant has also filed affidavit of service wherein he states that service has been done and notice issued by this Hon'ble Tribunal has been

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sent on the email id of the respondent available in the MCA master data and also other email on 18.04.2019, from where previous communications have taken place between the applicant and respondent.

13. In spite of proper service of application under section 9, none appeared for the corporate debtor nor is any reply filed.
14. This Tribunal is constrained to proceed with the matter ex-parte against the respondent since it has not appeared though Section 8 notice and the present application were duly served on the Respondent and proof of service is filed by the applicant.
15. The applicant has filed an affidavit under Section 9(3)(b) stating that no notice of dispute from Corporate Debtor is received.
16. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
17. On perusal of the record it is clear that the default has occurred on 20.03.2018. Hence, the claimed is not time

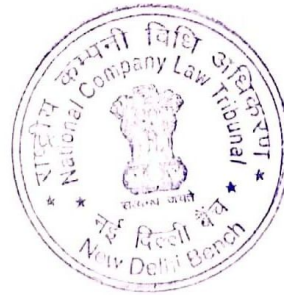
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barred. And the present application is well within the limitation period.

18. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfillment of requirements under section 9(5) of the Code. Hence, the present application is admitted.
19. The Applicant has proposed the name of Interim Resolution Professional, Mr. Sanjay Kumar Jha having registration no. IBBI/IPA-002/IP-N00684/2018-19/12031, having email id sanjayjhafcs@gmail.com, mobile no. 9811579790, who is appointed as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.



20. 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 Respondent, prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.
21. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional Mr. Sanjay Kumar Jha to meet out the expenses 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 three days 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.

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22. The registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.

(HEMANT KUMAR SARANGI)

MEMBER (Technical)



(DR. DEEPTI MUKESH)

MEMBER (Judicial)


17/11/19
सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कंपनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003

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