



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH : C-IV

CP(IB)-4248/MB/2019

Under Section 9 of the IBC, 2016

*In the matter of*

**India Chapter of International  
Advertising Association**

...Operational Creditor

v/s.

**Business Broadcast News Pvt. Ltd.**

...Corporate Debtor

Order Pronounced on: **19.04.2023**

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner : Ms. Shraddha Jadhav i/b Juilee Ghadge and Depti  
Nagda, Advocates.

For the Respondent : None.

**ORDER**

*Per: Prabhat Kamar, Member (Technical)*

1. This is a Company Petition filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by **India Chapter of International Advertising Association**, ("the Operational Creditor") on 25.11.2019,



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seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Business Broadcast News Private Limited** (“the Corporate Debtor”).

2. The Corporate Debtor is a Company incorporated on 28.04.2007 under the Companies Act, 2013, as a private company limited by shares with the Registrar of Companies, Maharashtra, Mumbai. Its Corporate Identity Number (CIN) is U92200MH2007PTC170406. Its registered office is at Windsor Unit 101, Off CST Road, Vidyanagri Marg, J P Morgan Lane, Kalina, Santacruz (E) Mumbai – 400 098. Therefore, this Bench has jurisdiction to deal with the present Petition.
3. The present petition was filed by the Operational Creditor before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a total sum of ₹39,91,350/- (Rupees Thirty-nine lakh Ninety-one thousand Three hundred and Fifty only), which appears to have been wrongly stated as ₹38,91,350/- as sum total of principal and interest stated thereafter comes to ₹39,91,350/-. The dates of default are 01.02.2019 and 01.03.2019 as per the invoice dates given in Part-IV of the Petition.
4. This matter was first listed on 02.12.2019 and subsequently on 20.12.2019 and 08.01.2020 and none was present on these dates. On fourth occasion i.e. on 28.01.2020, Counsel for the Operational Creditor was present and Court Notice was ordered. Even after issuance of Court Notice, Corporate Debtor did not appear when listed on 18.02.2020. Subsequently, in four occasions the matter did not reach and when the matter taken up for hearing on 23.12.2021 the Counsel for the Operational Creditor was not



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present whereas Counsel for the Corporate Debtor was present. Since there was no representation from the side of Operational Creditor, the Bench dismissed the Petition due to non-prosecution. Thereafter the Operational Creditor filed a Restoration Application [Rst.A.05(MB)/2022] which was listed on many occasions but Corporate Debtor was not present on any single occasion. Finally, the Rst. Application was allowed on 04.01.2023 and CP(IB)-4248(MB)/2019 was restored and listed for hearing on 20.03.2023. The Corporate Debtor did not appear even on 20.03.2023, however, the matter finally heard on 20.03.2023 and reserved for orders.

5. The case of the Operational Creditor is as under:
  - a) The Operational Creditor submits that it is a non-profit organization with the object of promoting the proficiency of individuals, firms, companies and such other organization actively engaged in Advertising & Marketing the goods produced, sold or distributed by any organization and their associates.
  - b) The Operational Creditor organized an event called “44<sup>th</sup> IAA World Congress, 2019” to be held from 20.02.2019 to 22.02.2019 at Grand Hyatt Lulu International Convention Centre, Kochi, Kerala. The Corporate Debtor agreed to participate in the Event as sponsor, whereby the Operational Creditor provided 3 Coffee Breaks and visibility to the Corporate Debtor, amongst other deliverables, and the fees was fixed at ₹30 lakhs plus GST payable immediately, however it was subsequently agreed that 50% would be payable before the start of Congress and balance 50% within one month.



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- c) The Event was held and the Corporate Debtor was allowed to participate in the Event even without having paid 50% in advance. The applicant had raised invoices on 01.02.2019 and 01.03.2019 as per agreed payment terms under the GST tariff heading “Services provided by other Membership Organizations” levying GST thereon.
- d) As the payment was not forthcoming, the Operational Creditor sent several reminders to the Corporate Debtor requesting for payment. Since no payment received even after reminders, the Operational Creditor issued Demand Notice on 03.09.2019 for which no reply received by the Operational Creditor. However, there are few emails received from the Corporate Debtor prior to the Demand Notice wherein the Corporate Debtor confirmed participation in the Event and assurance to make payment of the invoices.
- e) Since neither payment nor any reply received from the Corporate Debtor, the Operational Creditor filed this Petition for initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor.
- f) The Operational Creditor has attached all the email communications with the Corporate Debtor to prove that the Corporate Debtor agreed to participate in the Event and participated. Thereafter, appreciated about the Event and consequent assurances for the payment, etc.
6. Corporate Debtor has neither filed reply to the Petition nor to the demand notice, however, few email communications with the Operational Creditor makes the point of Corporate Debtor clear as explained below :



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- a) E-mail dated 30.01.2019 from Anuj Katiyar of Corporate Debtor to Soumen Santara of Operational Creditor confirmed the participation in Congress and communicated how it shall proceed and how the Operational Creditor has to proceed to take it further.
- b) Vide E-mail dated 01.03.2019 to Soumen Santara of Operational Creditor, Anuj Katiyar of Corporate Debtor acknowledged participation of corporate debtor in the Congress and communicated that "The invoices are in process with our finance team and will let you the date of payment by Monday".
- c) E-mail dated 26.03.2019 from Anuj Katiyar of Corporate Debtor to Soumen Santara clearly acknowledges that the payment was due from the Corporate Debtor and it could not make payment due to cash flow issue. It was also communicated that the Corporate Debtor can not commit the clear date, but it will be its top priority.
- d) Vide E-mail dated 26.04.2019, Asheesh Chatterjee, then overseeing the business operations of Corporate Debtor, wrote to S.K. Swamy of operational Creditor on its request you settle the outstanding payment, that he will revert soon, however no reply is on record.

**Findings:**

7. The Operational Creditor has claimed an amount of ₹39,91,350/- towards the outstanding operational debt for the services rendered to the Corporate Debtor by way of participation of the Corporate Debtor in the Event organized by the Operational Creditor. The Operational Creditor has raised invoices and copy of invoices are attached with the Petition.



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Also, the Operational Creditor has filed E-mails exchanged between the concerned persons of both the parties, which makes it clear that the services were rendered by Operational Creditor, for which the payment was acknowledged as due by the Corporate Debtor. It was also acknowledged vide email dated 26.03.2019 that the payment could not be made due to cash flow mis-match and shall be released on priority. However, no payment was released. Accordingly, we feel that an operational debt of ₹39,91,350/- is due from the Corporate Debtor, who had defaulted in payment thereof despite numerous follow-ups and promise to pay.

8. Though, the Corporate Debtor was not represented by any one in the hearing after restoration of present petition and not filed any reply to the Petition, we find that the case of Operational Creditor is clear and does not need any further clarification from the Corporate Debtor in view of fact that the Corporate Debtor had opportunity to refute the claim of debt when it was served the statutory demand notice dated 03.09.2019 via Speed Post. It is pertinent to note that Mr. Amit Tungare, Counsel for the Corporate Debtor was present only on one occasion i.e. on 23.12.2021, wherein the petition came to be dismissed for want of prosecution, while this application was listed for hearing on 02.12.2019 and thereafter on numerous occasions prior to 23.12.2021 the Corporate Debtor had neither appeared nor filed any submissions.
9. In view of foregoing, we feel that this Petition deserves to be admitted u/s 9 of the Code in view of existence of operational debt of more than



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₹1,00,000/- (the threshold limit as applicable at the time of filing of present application), default, and no dispute in relation to such debt. We find that the petition has been filed within 3 years from the date of default and complies with the provisions of the Code. The Operational Creditor did not propose any name of the Resolution Professional. Therefore, this Bench has to appoint any one from the IBBI approved panel of Resolution Professionals.

10. It is, accordingly, hereby ordered as follows: -

(a) The petition bearing No.: CP(IB)-4248/(MB)/2019 filed by **India Chapter of International Advertising Association**; the Operational Creditor, under Section 9 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Business Broadcast News Private Limited** [CIN: U92200MH2007PTC170406]; the Corporate Debtor, is hereby **admitted**.

(b) 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;



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- (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.
- (c) 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;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal 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.



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- (e) 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.
- (f) **Mr. Gajesh Labhchand Jain**, having registration No.: IBBI/IPA-001/IP-P01697/2019-2020/12588, email: gajeshjain@gmail.com, mob.: 9167108835, is hereby appointed as Interim Resolution Professional to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/ Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- (g) 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.
- (h) The Operational Creditor shall deposit a sum of ₹5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email



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immediately, and in any case, not later than two days from the date of this Order.

- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, 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.

Sd/-

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

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**

19.04.2023/pvs