

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD

SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE DR. VENKATA RAMAKRISHNA BADARINATH NANDULA- MEMBER
JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 29.10.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 83/9/HDB/2020
NAME OF THE COMPANY	Hyderabad Metchem Pvt Ltd
NAME OF THE PETITIONER(S)	Honest Enterprise Pvt Ltd
NAME OF THE RESPONDENT(S)	Hyderabad Metchem Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

CP 83/9/HDB/2020 is admitted. Orders passed vide separate orders.


MEMBER (T)

Syamala


MEMBER(J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.83/9/HDB/2020

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**APPLICATION UNDER SECTION 9 OF
I&B CODE, 2016 READ WITH RULE 6
OF I&B (AAA) RULES, 2016**

In the matter of

Hyderabad Metchem Private Limited

Honest Enterprise Private Limited
118, Meghdoot Aptt., Nr. Apsara Cinema
Pratapnagar Road
Vadodara – 390004.

..
**Petitioner
(Operational Creditor)**

VERSUS

Hyderabad Metchem Private Ltd
Plot No.34, Cie Phase Iigandhi Nagar
Opp Idpl Colony
Hyderabad – 500037.

..
**Respondent
(Corporate Debtor)**

Date of order: 29th October 2021

Coram:

**HON'BLE DR. VENKATA RAMAKRISHNA BADARINATH NANDULA
MEMBER (JUDICIAL)**

AND

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Parties / counsels present:

For the Petitioner : Dr.S.V. Rama Krishna, Advocate.

Per Bench

Heard on: 15.07.2021, 27.08.2021, and 20.10.2021.



ORDER

This petition is filed by Operational Creditor/ Honest Enterprises Private Limited claiming an amount of **Rs.1,00,27,754/-** to be operational debt as on 21.10.2019, based on transactions as per Annexure 'A', which includes interest.

2. Hence this petition is filed under section 9 of Insolvency and Bankruptcy Code, 2016, read with Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

3. The averments made in the petition are as follows:

3.1 The Operational Creditor is a private limited company incorporated under the Companies Act, 2013 having its registered office at Vadodara, Gujarat. The Corporate Debtor too is a private limited company incorporated under the Companies Act, 2013 having its registered office at Hyderabad. The respondent/ Corporate Debtor received goods from the applicant. The applicant raised invoices for the goods supplied amounting to Rs.69,99.543/-

3.2 The applicant had raised invoices dated 23rd and 24th March 2012, issued Demand Notice dated 07.06.2019 (page 32-33) to the respondent, and the said Demand Notice was also served on the present Directors of the respondent/ Corporate Debtor vide Registered Post on 11.06.2019. The respondent has neither made payment nor raised any dispute under section 9(5)(ii)(d) of the I&B Code, 2016.

4. The petitioner/ Operational Creditor has filed Memo of Service of Notice dated 27.02.2020, Memo dated 30.09.2021 furnishing proof of newspaper publication of Notice. In spite of notice/ newspaper publication there is no representation on behalf of the respondent/ Corporate Debtor. Vide order dated 20.10.2021, the respondent/ Corporate Debtor has been treated as ex parte.

5. We are of the opinion that consistent absence of the Corporate Debtor amounts to tacit admission of debt and default. We have,



therefore, no option but to adjudicate the matter without assistance of the respondent.

6. Heard the learned counsel for the Operational Creditor and perused the documents produced on record. As stated above the operational creditor has filed copies of various documents. In the present case, there is no doubt with regard to supply of goods made by Operational Creditor and the same having received by the Corporate Debtor, by virtue of Demand Notice/ Invoice in Form-3 (pages 32-33), Form of Notice in Form-4 (pages 34-36), and Transport Way-Bills (pages 16, 19, 22, 25 and 28).

7. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -

(A) Corporate Debtor, M/s Hyderabad Metchem Private Limited is admitted in Corporate Insolvency Resolution Process under section 9 of the Insolvency & Bankruptcy Code, 2016,

(B) The Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(C) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(D) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator

or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

- (E) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (F) 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 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- (G) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (H) That this Bench hereby appoints **Shri Pradeep Kumar Kabra**, having IBBI Registration No. IBBI/ IPA-001/ IP-P01104/ 2017-18/ 11790, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. He has filed Form-2 issued by the Institute of Insolvency Professionals. His Authorisation for Assignment is valid upto 30.12.2021. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

8. Accordingly, this Petition is admitted.

9. Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


VENKATA RAMAKRISHNA BADARINATH NANDULA
MEMBER (JUDICIAL)