

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 1**

ITEM No 41  
CP(IB) 55 of 2020

**Order under Section 9 iBC**

**IN THE MATTER OF:**

East India Transport Agency  
V/s  
SRK Multimodal Solutions Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on ..23/11/2021**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Ajai Das Mehrotra, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.



**(AJAI DAS MEHROTRA )  
MEMBER (TECHNICAL)**



**(MADAN B GOSAVI)  
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**CP (IB) No. 55/NCLT/AHM/2020**

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

**In the matter of:**

**East India Transport Agency**

(Unit of Elta India Limited)

301, Steel Chambers

Devji Ratansey Marg

MUMBAI 400 009

**... Operational Creditor**

**Versus**

**SRK Multimodal Solutions Private Limited**

Plot No. 315, Ward – 12/B

Deepak Complex, First Floor

Office No. 2,

GANDHIDHAM 370 201

Gujarat State

**.. Corporate Debtor**

Order Reserved on : 01.11.2021

Order Pronounced on: 23.11.2021

**Coram: MADAN B. GOSAVI, MEMBER (J)**

**AJAI DAS MEHROTRA, MEMBER (T)**

**Appearance:**

For Operational Creditor : Learned counsel Mr. Masoom K Shah

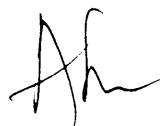
For Corporate Debtor : None



**ORDER**

**[Per: AJAI DAS MEHROTRA, MEMBER (T)]**

1. This application has been filed by Operational Creditor, namely, **East India Transport Agency** under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor, namely, **SRK Multimodal Solutions Private Limited**. The amount of debt has been claimed at **Rs. 48,42,248/- (Rupees forty-eight lakhs forty-two thousand two hundred and forty-eight only)** which includes interest thereon. As per column IV of form 5 date of default is 16.01.2017, the date on which the corporate debtor had acknowledged and admitted the operational debt.
2. The facts, in brief, are that the Operational Creditor who is engaged in the business of transport, had entered into a business relationship with Corporate Debtor and had provided services of transporting Wire-rods and Aluminium Ingot from Navi Mumbai to Silvassa during the period from 11.09.2015 to 26.03.2016 (page 13 to 173) and had raised invoices on the corporate debtor.



3. The Operational Creditor has further submitted that during the period from 30.10.2016 to 31.12.2016 the Corporate Debtor had issued 5 cheques worth Rs. 25,00,000/-towards the outstanding dues. As all the five cheques got dishonoured, the Operational Creditor had issued legal notice under Section 138 & 141 of the Negotiable Instrument Act, 1881 dated 22.02.2017 which was replied by the Corporate Debtor on 07.03.2017.
  
4. The Operational Creditor has further submitted that despite several reminders the Corporate Debtor failed to clear the operational debt, therefore, Demand Notice under Section 9 of the IB Code dated 04.05.2018 was issued at the registered Office of the Corporate Debtor which mentioned in the Master Data of the Corporate Debtor and also to the directions of the Corporate Debtor calling upon the respondent to pay the operational debt. The Demand Notice was replied by the Directors of the Corporate Debtor vide letter dated 24.05.2018, wherein it is stated that Demand Notice dated 04.05.2021 is to be addressed to the Corporate Debtor and not to the Directors of the Corporate Debtor.
  
5. On perusal of record, it is found that in support of its claim, the operational creditor has placed on record copy of documents like invoices, ledger, demand notice under Section 8 (1) of the IB Code,



affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and other relevant documents.

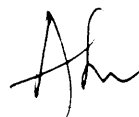
6. The corporate debtor has not filed any reply despite being given number of opportunities. During the course of final hearing also none remained present on behalf of the corporate debtor. It is also found that demand notice served by the operational creditor has been replied by the corporate debtor. The operational creditor has filed copy of track report as a proof of service of demand notice.
7. On perusal of the record, it is also found that the instant petition filed by the applicant is well within limitation and there is no pre-existing dispute regarding the operational debt from the side of the corporate debtor. Further, such debt is due and payable and a default has occurred in repayment thereof.
8. The name of IRP has not been proposed which is not mandatory in case of an application filed under Section 9 of IBC, 2016. Hence, we shall appoint an IRP from the list approved by IBBI. The petition is otherwise complete and defect free.
9. In view of the above discussion, we admit this application and order as under:



**ORDER**

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- (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 Securitisation and Reconstruction of Financial 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 the possession of the corporate debtor.*


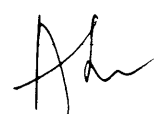


2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
3. The Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Krunal Ramanbhai Tanna, having Registration No: IBBI/ IPA-001/IP-P-01949/2020-2021/13064 Email Address: [krunaltanna.ip@yahoo.com](mailto:krunaltanna.ip@yahoo.com)** and having office at 315, Super Mall, Nr. Lal Bungalow, CG Road, Navrangpura, Ahmedabad 380 009 to act as an IRP under Section 13(1) (c) of the Code. The IRP is directed to file request/applications which he is required to file with the Adjudicating Authority as per provisions of IBC, 2016 read with CIRP Regulations, 2016.
4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance




and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, does not assist or co-operate, the IRP shall be at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

5. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs. 2,00,000/- (Rupees two lacs Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating

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Authority along with First Progress Report.

8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.
9. Accordingly, CP (IB) No. 55/9/NCLT/AHM/2020 is allowed.
10. List the matter on 03.01.2022.



**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**



**MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

**Braj Mohan**