

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

TP No. 09/CTB/2019

-IN-

CP (IB) No. 1538/MB/2018

**CORAM: 1. Ms. Sucharitha R. Member (J)
2. Shri Satya Ranjan Prasad, Member (T)**

In the Matter of:

An application 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;

-And-

In the Matter of:

M/S. ROBO SILICON PRIVATE LIMITED, having registered office at- No. 402, 4th Floor, Sri Durga Towers, Road No.-10, Banjara Hills. Hyderabad – 500 034, Telengana.

.... Operational Creditor/Applicant

-Versus-

In the Matter of:

M/S. SUPREME CONCRETE & INFRASTRUCTURE PRIVATE LIMITED, having registered office at A/6, Polymer Complex, Chandaka Industrial Estate, P.O: KIIT, Bhubaneswar, Odisha- 751 024.

.... Corporate Debtor/Respondent

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Counsels appeared for the Petitioner

1. Vijay Nath Jha, Adv.

Date of pronouncement of Order: the 19th day of November, 2019.

ORDER

Per: Ms. Sucharitha R. Member (J)

1. This petition is filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (for brevity IBC) read with Rule, 6 of the IBC (Application to Adjudicating Authority) Rule, 2016. The Petitioner is M/s. Robo Silicon Private Limited, a company registered under provision of Companies Act. This application is filed for initiation of Corporate Insolvency Resolution Process against M/s. Supreme Concrete & Infrastructure Private Limited.
2. The Respondent/Corporate Debtor M/s. Supreme Concrete & Infrastructure Private Company is registered under Companies Act, 1956 on 21.04.1997 having **CIN: U70101OR1997PTC004900**. The nominal

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Share Capital of the Respondent/Corporate Debtor is Rs. 1,50,00,000/- and Paid Up Share Capital is Rs. 1,50,00,000/-.

3. This application was originally filed before NCLT, Kolkata Bench, numbered as CP(IB) No. 1538/KB/2018. After constitution of this bench, the matter was transferred and re-numbered as TP No. 09/CTB/2019.
4. The transactions were of the year February 2018 to June 2019. Hence, the claim within the period of limitation.
5. The registered office of the Respondent/Corporate Debtor is within the state of Odisha, hence, this Adjudicating Authority has jurisdiction.
6. This application is filed for the recovery of the debt of an amount of Rs. 27,95,297/- out of which Rs. 26,54,747/- is stated to be due as on 30.06.2018 as principal amount and Rs. 1,40,550/- on account of interest @ 18% p.a. for overdue invoices up to 14.09.2018, and further interest till the date of re-payment by the Respondent/Corporate Debtor.

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In para 9 of the reply, the Corporate Debtor admits “Debt”. The Corporate Debtor states that due to slow down in business of infrastructure and real estate, the Corporate Debtor faced difficulties in collecting the receivable. Hence, could not settle the dues of the applicant/Operational Creditor.

7. It is submitted by the applicant/Operational Creditor that the respondent/Corporate Debtor placed various purchase order to the applicant/Operational Creditor placed during the period from February 2018 to June, 2019 for supply of various grades and quantities of Robo Sand and/or boulders which were supplied by the applicant as per agreed terms and conditions. The Respondent/Corporate Debtor accepted without raising an objection along with the invoices the materials supplied. It is added the last such supply was on 30.06.2018.

- (i) Bill No-8000001 dated 19.02.2018 for sum 9,747/-
- (ii) Bill No-8000002 dated 19.02.2018 for sum 22,349/-
- (iii) Bill No-8000003 dated 20.02.2018 for sum 15,414/-
- (iv) Bill No-8000004 dated 20.02.2018 for sum 14,725/-
- (v) Bill No-8000005 dated 21.02.2018 for sum 20,178/-
- (vi) Bill No-8000006 dated 23.02.2018 for sum 14,861/-
- (vii) Bill No-8000007 dated 23.02.2018 for sum 25,040/-
- (viii) Bill No-8000008 dated 23.02.2018 for sum 16,182/-
- (ix) Bill No-8000009 dated 23.02.2018 for sum 15,133/-
- (x) Bill No-8000010 dated 24.02.2018 for sum 24,137/-
- (xi) Bill No-8000011 dated 24.02.2018 for sum 25,185/-

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- (xii) Bill No-8000012 dated 27.02.2018 for sum 15,009/-
- (xiii) Bill No-8000013 dated 28.02.2018 for sum 23,767/-
- (xiv) Bill No-8000014 dated 28.02.2018 for sum 24,173/-
- (xv) Bill No-8000015 dated 28.02.2018 for sum 15,944/-
- (xvi) Bill No-8000016 dated 01.03.2018 for sum 24,137/-
- (xvii) Bill No-8000017 dated 01.03.2018 for sum 24,164/-
- (xviii) Bill No-8000020 dated 04.03.2018 for sum 24,959/-
- (xix) Bill No-8000019 dated 04.03.2018 for sum 25,031/-
- (xx) Bill No-8000022 dated 06.03.2018 for sum 15,145/-
- (xxi) Bill No-8000021 dated 06.03.2018 for sum 24,959/-
- (xxii) Bill No-8000029 dated 07.03.2018 for sum 15,207/-
- (xxiii) Bill No-8000030 dated 08.03.2018 for sum 15,473/-
- (xxiv) Bill No-8000032 dated 09.03.2018 for sum 24,489/-
- (xxv) Bill No-8000031 dated 09.03.2018 for sum 24,968/-
- (xxvi) Bill No- 8000039 dated 13.03.2018 for sum 23,604/-
- (xxvii) Bill No- 8000040 dated 13.03.2018 for sum 15,477/-
- (xxviii) Bill No- 8000042 dated 14.03.2018 for sum 14,787/-
- (xxix) Bill Nio-8000047 dated 16.03.2018 for 23,911/-
- (xxx) Bill No- 8000044 dated 16.03.2018 for 15,014/-
- (xxxi) Bill No-8000046 dated 16.03.2018 for 16,082/-
- (xxxii) Bill No- 8000048 dated 16.03.2018 for 23,848/-
- (xxxiii) Bill No- 8000049 dated 17.03.2018 for 23,911/-
- (xxxiv) Bill No-8000051 dated 18.03.2018 for 22,638/-
- (xxxv) Bill No-8000055 dated 18.03.2018 for 13,115/-
- (xxxvi) Bill No-8000056 dated 18.03.2018 for 9,815/-
- (xxxvii) Bill No- 8000058 dated 18.03.2018 for 20,079/-
- (xxxviii) Bill No- 8000059 dated 18.03.2018 for 20,223/-
- (xxxix) Bill No-8000060 dated 18.03.2018 for 19,860/-
- (xl) Bill No-8000062 dated 20.03.2018 for 15,513/-
- (xli) Bill No-8000063 dated 20.03.2018 for 15,916/-
- (xlii) Bill No- 8000130 dated 31.03.2018 for 22,873/-
- (xliii) Bill No-8000122 dated 31.03.2018 for 24,228/-
- (xliv) Bill No- 8000123 dated 31.03.2018 for 23,966/-
- (xlv) Bill No- 8000124 dated 31.03.2018 for 24,092/-
- (xlvi) Bill No- 8000125 dated 31.03.2018 for 23,902/-
- (xlvii) Bill No- 8000126 dated 31.03.2018 for 22,539/-
- (xlviii) Bill No- 8000127 dated 31.03.2018 for 23,352/-
- (xlix) Bill No- 8000128 dated 31.03.2018 for 22,927/-
- (l) Bill No- 8000129 dated 31.03.2018 for 23,650/-
- (li) Bill No- 8000131 dated 31.03.2018 for 23,505/-

- (lii) Bill No- 8000115 dated 31.03.2018 for 20,624/-
- (liii) Bill No- 8000116 dated 31.03.2018 for 15,655/-
- (liv) Bill No- 8000117 dated 31.03.2018 for 16,057/-
- (lv) Bill No- 8000119 dated 31.03.2018 for 16,063/-
- (lvi) Bill No- 8000120 dated 31.03.2018 for 15,377/-
- (lvii) Bill No- 8000121 dated 31.03.2018 for 23,713/-
- (lviii) Bill No- 8000118 dated 31.03.2018 for 15,026/-
- (lix) Bill No- 8000132 dated 31.03.2018 for 17,231/-
- (lx) Bill No- 181700013 dated 07.04.2018 for 22,882/-
- (lxi) Bill No- 1717100063 dated 08.04.2018 for 23,641/-
- (lxii) Bill No- 1817100064 dated 08.04.2018 for 24,516/-
- (lxiii) Bill No- 181700014 dated 08.04.2018 for 14,390/-
- (lxiv) Bill No- 181700015 dated 08.04.2018 for 24,047/-
- (lxv) Bill No-181700016 dated 10.04.2018 for 21,798/-
- (lxvi) Bill No-181700065 dated 11.04.2018 for 24,516/-
- (lxvii) Bill No 181700020 dated 12.04.2018 for 15,428/-
- (lxviii) Bill No- 181700068 dated 13.04.2018 for 14,753/-
- (lxix) Bill No- 181700067 dated 13.04.2018 for 23,496/-
- (lxx) Bill No- 181700051 dated 21.04.2018 for 11,879/-
- (lxxi) Bill No- 181700052 dated 21.04.2018 for 19,324/-
- (lxxii) Bill No- 181700053 dated 21.04.2018 for 19,044/-
- (lxxiii) Bill No- 181700056 dated 22.04.2018 for 20,552/-
- (lxxiv) Bill No- 181700057 dated 22.04.2018 for 19,451/-
- (lxxv) Bill No- 1817500054 dated 22.04.2018 for 18,981/-
- (lxxvi) Bill No- 1817500055 dated 22.04.2018 for 12,230/-
- (lxxvii) Bill No- 1817500058 dated 22.04.2018 for 23,090/-
- (lxxviii) Bill No- 1817500059 dated 22.04.2018 for 19,983/-
- (lxxix) Bill No- 1817500060 dated 22.04.2018 for 11,907/-
- (lxxx) Bill No- 1817500069 dated 23.04.2018 for 12,281/-
- (lxxxi) Bill No- 1817500070 dated 23.04.2018 for 14,192/-
- (lxxxii) Bill No- 181750000 dated 23.04.2018 for 19,053/-
- (lxxxiii) Bill No- 1817100072 dated 23.04.2018 for 11,703/-
- (lxxxiv) Bill No- 1817100073 dated 23.04.2018 for 18,629/-
- (lxxxv) Bill No- 1817100074 dated 23.04.2018 for 18,728/-
- (lxxxvi) Bill No- 1817100075 dated 23.04.2018 for 12,156/-
- (lxxxvii) Bill No- 1817100077 dated 24.04.2018 for 19,541/-
- (lxxxviii) Bill No- 1817100076 dated 24.04.2018 for 12,344/-
- (lxxxix) Bill No- 1817100080 dated 25.04.2018 for 19,911/-
- (xc) Bill No- 1817100079 dated 25.04.2018 for 12,763/-
- (xci) Bill No- 1817100078 dated 25.04.2018 for 23,433/-

(xcii) Bill No- 1817100025 dated 25.04.2018 for 13,001/-
(xciii) Bill No- 1817100019 dated 25.04.2018 for 12,219/-
(xciv) Bill No- 1817100026 dated 26.04.2018 for 18,918/-
(xcv) Bill No- 1817100029 dated 26.04.2018 for 18,828/-
(xcvi) Bill No- 1817100030 dated 26.04.2018 for 12,928/-
(xcvii) Bill No- 1817100031 dated 26.04.2018 for 19,117/-
(xcviii) Bill No- 1817100027 dated 26.04.2018 for 23,424/-
(xcix) Bill No- 1817100028 dated 26.04.2018 for 14,657/-
(c) Bill No- 1817100033 dated 27.04.2018 for 22,936/-
(ci) Bill No- 1817100034 dated 27.04.2018 for 20,020/-
(cii) Bill No- 1817100036 dated 28.04.2018 for 14,680/-
(ciii) Bill No- 1817100037 dated 28.04.2018 for 23,496/-
(civ) Bill No- 1817100038 dated 28.04.2018 for 20,489/-
(cv) Bill No- 1817100062 dated 28.04.2018 for 19,731/-
(cvi) Bill No- 1817100039 dated 28.04.2018 for 13,659/-
(cvii) Bill No- 1817100046 dated 28.04.2018 for 12,939/-
(cviii) Bill No- 1817100041 dated 29.04.2018 for 23,514/-
(cix) Bill No- 1817100042 dated 29.04.2018 for 20,390/-
(cx) Bill No- 1817100043 dated 29.04.2018 for 12,599/-
(cxi) Bill No- 1817100040 dated 29.04.2018 for 13,058/-
(cxii) Bill No- 1817100044 dated 30.04.2018 for 20,128/-
(cxiii) Bill No- 1817100050 dated 30.04.2018 for 12,882/-
(cxiv) Bill No- 1817100049 dated 30.04.2018 for 13,047/-
(cxv) Bill No- 1817100047 dated 30.04.2018 for 23,920/-
(cxvi) Bill No- 1817100048 dated 30.04.2018 for 23,948/-
(cxvii) Bill No- 1817100066 dated 30.06.2018 for 15,695/-
(cxviii) Bill No- 1817100045 dated 30.04.2018 for 20,020/-
(cxix) Bill No- 1817100176 dated 01.05.2018 for 19,378/-
(cxx) Bill No- 1817100180 dated 01.05.2018 for 14,691/-
(cxxi) Bill No- 1817100135 dated 02.05.2018 for 19,595/-
(cxxii) Bill No- 1817100134 dated 02.05.2018 for 12,599/-
(cxxiii) Bill No- 1817100183 dated 02.05.2018 for 23,930/-
(cxxiv) Bill No- 1817100182 dated 02.05.2018 for 15,672/-
(cxxv) Bill No- 1817100181 dated 02.05.2018 for 15,717/-
(cxxvi) Bill No- 1817100137 dated 04.05.2018 for 23,297/-
(cxxvii) Bill No- 1817100138 dated 04.05.2018 for 19,315/-
(cxxviii) Bill No- 1817100139 dated 04.05.2018 for 14,147/-
(cxxix) Bill No- 1817100140 dated 04.05.2018 for 23,397/-
(cxxx) Bill No- 1817100141 dated 04.05.2018 for 14,368/-
(cxxxi) Bill No- 1817100142 dated 04.05.2018 for 23,920/-

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(cxxxii) Bill No- 1817100144 dated 04.05.2018 for 22,692/-
(cxxxiii) Bill No- 1817100145 dated 04.05.2018 for 12,213/-
(cxxxiv) Bill No- 1817100146 dated 04.05.2018 for 19,469/-
(cxxxv) Bill No- 1817100147 dated 04.05.2018 for 22,692/-
(cxxxvi) Bill No- 1817100148 dated 05.05.2018 for 11,533/-
(cxxxvii) Bill No- 1817100149 dated 05.05.2018 for 12,253/-
(cxxxviii) Bill No- 1817100150 dated 05.05.2018 for 25,031/-
(cxxxix) Bill No- 1817100151 dated 05.05.2018 for 22,927/-
(cxl) Bill No- 1817100153 dated 07.05.2018 for 12,168/-
(cxli) Bill No- 1817100152 dated 07.05.2018 for 12,366/-
(cxlii) Bill No- 1817100154 dated 07.05.2018 for 21,289/-
(cxliii) Bill No- 181710015 dated 07.05.2018 for 16,851/-
(cxliv) Bill No- 1817100156 dated 07.05.2018 for 21,236/-
(cxlv) Bill No- 1817100157 dated 07.05.2018 for 15,077/-
(cxlvi) Bill No- 1817100160 dated 07.05.2018 for 17,048/-
(cxlvii) Bill No- 1817100161 dated 07.05.2018 for 14,220/-
(cxlviii) Bill No-1817100159 dated 07.05.2018 for 17,524/-
(cxlix) Bill No- 181700130 dated 11.05.2018 for 13,642
(cl) Bill No- 181700132 dated 12.05.2018 for 12,848/-
(cli) Bill No- 181700131 dated 12.05.2018 for 14,260/-
(clii) Bill No- 181700163 dated 12.05.2018 for 20,601/-
(cliii) Bill No- JE40900046 dated 30.06.2018 for 1,93,181/-

RECEIVE AMOUNT FROM RESPONDENT

Dated 31.03.2018 received 4,768/-

Dated 06.04.2018 received 2,81,844/-

Dated 02.05.2018 received 15,026/-

Dated 02.05.2018 received 24,959/-

Dated 02.05.2018 received 25,031/-

Dated 02.05.2018 received 8,743/-

Dated 02.05.2018 received 5,863/-

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8. The applicant/Operational Creditor states that the respondent/Corporate Debtor always made part payment in respect of purchases that was made by them. The last of such part payment was made on 06.04.2018. The ledger of the applicant/Operational Creditor from 19.02.2018 to 01.09.2018 reflecting the invoices and part payment received are filed before this Adjudicating Authority.
9. The applicant states that after adjustment of all such aforesaid part payments and credit notes against various invoices raised against the supplies, the balance amount of Rs. 26,54,747/- remained due and payable by the respondent/ Corporate Debtor as on 30.06.2018, which was confirmed by the respondent/ Corporate Debtor vide endorsement of balance confirmation dated 30.07.2018.
10. The applicant/Operational Creditor submits that after repeated reminders to pay the outstanding amount of Rs. 26,54,747/- the respondent/Corporate Debtor failed to pay the aforesaid amount for which the applicant/Operational Creditor was constrained to sent statutory demand notice dated 14.09.2018 in Form-3 under Section 8 of IBC, 2016 for payment of outstanding debt. Again, the same demand notice was sent on 26.09.2018 by speed post with AD which was served on 18.09.2018,

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assuming that the former was not served. No reply has been received nor any payment has been made by the respondent/Corporate Debtor although 10 days have elapsed from the date of receipt of notice.

11. We have perused the application, reply, documents, affidavits. The “Debt” is admitted by the respondent and also has expressed inability to repay. In view of the same this application is **ADMITTED**.

ORDER

- (i) The application filed by the Operational Creditor under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **M/s. Supreme Concrete & Infrastructure Private Limited**.

- (ii) Moratorium Order is passed for a public announcement as stated in Sec. 13 of the IBC, 2016. The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call

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for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

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- d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- (v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

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(vii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the Resolution Professional upon receipt of the copy of this order.

(viii) **Mr. Debadatta Mohapatra** having **Registration No.:** **IBBI/IPA-002/IP-N00424/2017-18/11273** and **E-mail Id.:** **ip.csdeba@gmail.com** residence of Deba Mohapatra & Co. Company Secretaries, Plot No.- V I M – 79, Sailashree Vihar, Chandrasekharpur, Bhubaneswar, Orissa- 751 021 is appointed as Interim Resolution Professional registered with the ICSI Insolvency Professionals Agency, as Interim Resolution Professional for ascertaining the particulars of Creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

(ix) We direct the Operational Creditor to deposit a sum of Rs. One Lakh with Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount,

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however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.

- (x) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petition to the IRP, otherwise coercive steps to follow.
- xi) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.
- xii) Registry is hereby directed to communicate the order under Section 9 (5) (i) of the I.B. Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.

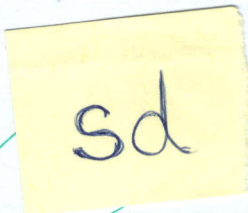
Interim Resolution Professional to file 1st Progress Report on
19.12.2019.

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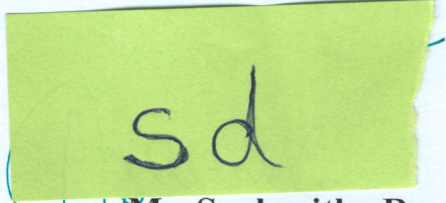
List the matter on 19.12.2019.

Let the certified copy of the order be issued upon compliance
with requisite formalities.



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Shri Satya Ranjan Prasad
Member (T)



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Ms. Sucharitha R.
Member(J)

Signed on this, the 19th day of November, 2019.

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