

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

7. C.P.(IB)-4345(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI SHYAM BABU GAUTAM, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **16.04.2021**

NAME OF THE PARTIES: Midas Impex Pvt ltd
V/s
Prince Swr Systems Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Prem Kumar, counsel for the petitioner and Mr. Dinesh Kumar, counsel for the corporate debtor are present through virtual hearing.

As per the earlier order dated 17.02.2021, the corporate debtor was directed to file Vakalatnama and reply within 2 weeks from that day by serving an advance copy on the other side. Petitioner is at liberty to file rejoinder if any. Today, the counsel appearing for the corporate debtor requested further time on the ground that the brief was entrusted to him yesterday. It is the submission of the counsel appearing for the petitioner that the corporate debtor has paid an amount of 10 lakhs through RTGS on 09.12.2019 subsequent to filing of the company petition. The conduct of the corporate debtor from the various earlier orders clearly speaks and proves that corporate debtor is buying time without filing any reply by changing different advocates from time to time.

In view of the facts and circumstances, this bench is of the considered opinion that nothing has to be adjudicated in the above company petition and the above company petition liable to be admitted. Accordingly, the above company petition is admitted vide detailed order.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)

Sd/-
H.V SUBBA RAO
Member (Judicial)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
CP (IB) NO. 4345 OF 2019**

**APPLICATION BY OPERATIONAL CREDITOR TO INITIATE
CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER
THE INSOLVENCY AND BANKRUPTCY CODE, 2016.**

*(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

Midas Impex Private Limited

Having its registered office address at
“Vraj”, 1st Floor Opp. Hotel President,
Limda Lane Corner, Jamnagar Gujrat, Pin
361001

.... Operational Creditor

Versus

**M/s. Prince SWR Systems Private
Limited**

Having its registered office address at:
A101/102, 1st Floor, Sunshine Plaza,
Naigaum Cross Road, Dadar (East),
Mumbai- 400014, Maharashtra, India

.... Corporate Debtor

Order dated: 16.04.2021

Coram: Hon’ble H.V. Subba Rao, Member (Judicial)

Hon’ble Shyam Babu Gautam, Member (Technical)

ORDER

1. The above company petition is filed by M/s Midas Impex Private Limited (hereinafter called as ‘Operational Creditor’) against M/s Prince SWR Systems Private Limited (hereinafter called as ‘Corporate Debtor’) for initiation of Corporate Insolvency Resolution Process (CIRP) for non-clearance of professional dues of the petitioner amounting to a sum of Rs.24,65,135/- (Rupees Fourteen Lakhs Seven Thousand One Hundred and Fifty Only). The Corporate Debtor filed its reply raising various contentions/issues and opposing admission of the above company petition.

2. As per the earlier order dated 17.02.2021, the Corporate Debtor was directed to file Vakalatnama and reply within 2 weeks from that date by serving an advance copy on the other side and the Operational Creditor was granted liberty to file rejoinder if it so desired.
3. Today, when the matter was called for hearing, the counsel appearing for the corporate debtor requested further time on the ground that the brief was entrusted to him only yesterday. It is the submission of the counsel appearing for the Operational Creditor that the Corporate Debtor has paid an amount of Rs.10 lakhs through RTGS on 09.12.2019 i.e. subsequent to filing of this present company petition. This part payment made by the Corporate Debtor proves that it owes the claimed amount to the Operational Creditor and hence it is deemed to be an admission on the part of the Corporate Debtor. Further, the conduct of the Corporate Debtor from the various earlier orders clearly speaks and proves that Corporate Debtor is only buying time without filing any reply by changing different advocates from time to time.
4. In view of the facts and circumstances, this bench is of the considered opinion that nothing has to be adjudicated in the above company petition and is liable to be admitted.
5. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- (a) The above Company Petition No. (IB) -4345(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Prince SWR Systems Private Limited.
- (b) Since the applicant has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list of Insolvency Professionals as furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Hirachand Nemichand Bafna** (hnb1502@rediffmail.com),

Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01207/2018-2019/11922 as the Interim Resolution Professional (IRP) to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- (c) The Operational Creditor shall deposit an amount of Rs.2 Lakhs towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- (d) That this 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 the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (e) 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.
- (f) 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.
- (g) That the order of moratorium shall have effect from the date of pronouncement 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, as the case may be.
- (h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

- (i) During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- (j) Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is allowed.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)

Sd/-
H V SUBBA RAO
Member (Judicial)