



IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **04.04.2025** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER :
PETITION NUMBER :CP(IB)/151(CHE)2024
NAME OF THE PETITIONER(S) :Electronic Corporation of Tamil Nadu Ltd
NAME OF THE RESPONDENTS :Marg Ltd
UNDER SECTION :Sec 9 Rule 6 of IBC, 2016

ORDER

Present: Ld. Counsel Shri. M. Vijayan for the Petitioner.

Ld. Counsel Ms. Naga Harshitha for the Respondent.

Vide separate order pronounced in Open Court, the petition is allowed and Shri. Balasubramanian Mekala is appointed as the RP.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

CP(IB)/151CHE)2024

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of
the Insolvency and Bankruptcy (Petition to Adjudicating Authority) Rules, 2016)*

In the matter of Marg Limited

Electronic Corporation of Tamil Nadu Ltd.,
Represented by its Company Secretary as KMP,
Mr. N. SrivathsaDesikan,
No. 629, Anna Salai,
Nandanam, Chennai-600 035

... Operational Creditor/ Petitioner

-Vs-

Marg Limited,
Marg Axis,
No. 4/318, Rajiv Gandhi Salai,
Kottivakkam, Chennai-600 041

... Corporate Debtor/Respondent

Order Pronounced on 4th April, 2025

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Operational Creditor: Shri. M. Vijayan, Advocate
Shri. Aravindasamy, Advocate

For Corporate Debtor: M/s. King & Patridge, Advocates
Shri. B. Ramana Kumar, Advocate
Ms. NagaHarshitha Advocate



ORDER

(Hearing conducted through VC)

This petition under Section 9 of the Insolvency and Bankruptcy, 2016 ("**IBC**") read with Rule 6 of the Insolvency and Bankruptcy Board of India (Petition to Adjudicating Authority) has been filed by **Electronic Corporation of Tamil Nadu Ltd.**, Represented by its Company Secretary Mr. N. Srivathsa Desikan (hereinafter referred to as "**Petitioner/Operational Creditor**") against **Marg Limited** (hereinafter referred to as "**Respondent/Corporate Debtor**") to initiate Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor.

2. **Part-I** of the petition sets out the details of the Petitioner/Operational Creditor. Its Registered Office is situated at No. 692, MHU Complex, II Floor, Anna Salai, Nandanam, Chennai-600 035. **Part-II** of the petition sets out the details of the Corporate Debtor. It has its Registered Office at Sri Sai Subhodhaya Apartments, Basement No.57/2B, East Coast Road, Thiruvanmiyur, Chennai-600 041 within the jurisdiction of this Tribunal. It was incorporated on 16.12.1994 with Authorized Share Capital of Rs.55,00,00,000/- (Rupees



Fifty Five Crores only) and Paid-up Share ShareCapital of Rs.50,82,00,000/- (Rupees Fifty Crores Eighty Two Lakhs only).

3. In **part-III** of the petition, the Petitioner has not proposed the name of any Interim Resolution Professional and left it to the discretion of this Tribunal to appoint the same.

4. **Part-IV** of the petition sets out the details of the operational debt i.e. Rs.2,13,09,000/- (Rupees Two Crores Thirteen Lakhs and Nine Thousand only) along with interest @ 18% per annum from 25.11.2022 i.e. the date of the award which is also taken as the date of default. This petition has been filed 24.06.2024.

5. The case of the Petitioner/Operational Creditor is that on 27.02.2009, it floated a tender to construct Information Technology (IT) building complex at Hosur, Viswanathapuram IT Special Economic Zone in Krishnagiri District. The Corporate Debtor participated in the tendering process and was selected as the successful tenderer for the construction of the built-up area of 65000 square feet in SEZ at Hosur. It was issued a Letter of Acceptance on 12.08.2010 on a revised price bid of Rs.13,75,00,000.30/-. A contract was entered into between them on 03.11.2010. The work was to be completed within ten months from



the date of handing over the possession of site. It was stipulated in the agreement/contract that in case of any failure to complete the work, the Corporate Debtor shall be liable to pay compensation to the Petitioner. They also entered into a Supplemental Agreement on 20.12.2012 whereby the original price was enhanced to Rs.14,58,99,710/-. The site was handed over to the Corporate Debtor on 03.01.2011 and the work was to be completed on or before 02.11.2011. Despite having given extension of time, the Corporate Debtor failed to complete the work even after the lapse of 48 months which made the Petitioner terminate the contract vide letter dated 20.11.2015. The Petitioner then invited the fresh tender and selected PSK Engineering Construction Co., as a successful tenderer. It was issued Letter of Acceptance to complete the balance work which was for an amount of Rs.13.73 Crores. As per the petition, after adjusting the security deposit, retention money and the amount withheld from the 15th final bill, the balance amount payable was Rs.2,13,09,000/-. The Petitioner sent a letter on 25.07.2017 to the Corporate Debtor to pay the said amount which the Corporate Debtor failed to pay. The Petitioner then sent a legal notice on 05.12.2017 demanding the Corporate Debtor to pay the said sum along with interest @ 12% per annum but the Corporate Debtor did not pay the



amount. The Petitioner then invoked the Arbitration Clause contained in the contract and filed an application for appointment of an Arbitrator. The Hon'ble High Court vide an order dated 22.01.2019, constituted an Arbitral Tribunal comprising of Mr. Justice B. Gokuldas (Retd.) as the sole Arbitrator. The Arbitrator conducted the proceedings and passed an award on 25.11.2022 directing the Corporate Debtor to pay a sum of Rs.2,13,09,000/- with interest @ 18% per annum from the date of award.

6. The Corporate Debtor did not challenge the award under Section 34 of Arbitration & Conciliation Act, 1996 within the period of 120 days from the date of the award. The Petitioner then sent Form-3 notice on 30.01.2024 to the Corporate Debtor demanding the sum along with interest which the Corporate Debtor replied vide letter dated 08.02.2024 stating that it intends to file an application under section 34 of the Act. It is stated that till filing of the petition, neither the Corporate Debtor has filed any petition challenging the award nor paid the amount.

7. On getting notice of the petition, the Respondent filed the reply admitting that it was awarded a contract for Rs.13.73 Crores by the



Petitioner which was enhanced to Rs.14.59 Crores. It is alleged that the Petitioner failed to make timely payments which resulted into delays. Some approvals were awaited. In the meantime, the cost of construction materials increased substantially. It was not given extension to complete the work. It is stated that despite all these delays attributable to the Petitioner, the Petitioner terminated the contract vide letter dated 20.11.2015 and initiated the arbitral proceedings. It is stated that the Arbitrator did not consider its counter claim and the relevant points presented during the proceedings and passed the award in favour of the Petitioner. It is stated that the Corporate Debtor has preferred an appeal against the award which is yet to be numbered.

8. We have heard Ld. Counsels for the parties and perused the documents.

9. The present petition has been filed on the basis of an award passed in favour of the Petitioner and against the Corporate Debtor by the Sole Arbitrator Hon'ble Mr. Justice B. Gokul Das for a sum of Rs.2,13,09,000/- carrying an interest @ 18% per annum from the date of award. The award was passed on 25.11.2022. This is in relation to a



work awarded to the Corporate Debtor by the Petitioner which it failed to complete within time which made the Petitioner terminate the contract and enforce the recovery through arbitration by invoking the Arbitration Clause provided in the contract. The Arbitral proceedings were also contested by the Respondent as seen from the Arbitral Award placed at page-21 to 40 of the petition.

10. Though in the present case, the Respondent has stated that it has challenged the award but as submitted by the Petitioner, the said petition has not yet numbered. Section 34 of the Arbitration and Conciliation Act, 1996 provides the timeline for challenging the award i.e. within 120 days from the date of passing of the award. As seen from the record, there is no order as to the stay of the award which was passed on 25.11.2022.

11. In the instant case, operational debt i.e. the award amount with interest payable by the Corporate Debtor exceeds the threshold limit of Rs.1.0 Crore as provided under Section 4 of the IBC. It was passed on 25.11.2022. Before filing this petition, the Petitioner had sent notice to the Respondent in Form-3 on 30.01.2024 but the Corporate Debtor did not make any payment.



12. The date of default in the present petition is stated to be the date when the award was passed i.e. 25.11.2022. The position of the Operational Creditor to fix 25.11.2022 as the date of default is agreeable and is in line with the decision of the Hon'ble High Court of Hyderabad in the case of *S. Sundharshan Rao v. The Citizen Co-operative Society Limited [MANU/AP/0052/2016]*. The relevant portion of the aforesaid judgment is extracted as under :

"6. ...Thus, if a period of four months elapses from the date the arbitral award has been received by a party, its right to get the same set aside under Section 34 of the 1996 Act gets exhausted. In other words, the arbitral award can get enforced any time after lapse of four months from the date the parties receive the copy of the arbitral award, but do not prefer to challenge the same in term of Section 34."

In the present case, the petition has been filed on 24.06.2024 i.e. within the period of three years from the date of default. Though the Respondent has stated that it has filed a petition under Section 34 of the Arbitration & Conciliation Act, 1996 but there is no record to show that the petition has been admitted and the award has been stayed by the Court.

13. We are therefore of the considered view that the Operational Creditor has successfully demonstrated and shown the



existence of debt and the default committed by the Corporate Debtor. Hence the petition, as filed by the Operational Creditor, is required to be **admitted** under Section 9(5) of the IBC, 2016. We accordingly admit the petition and order for initiation of CIRP against the Corporate Debtor viz., Marg Limited.

14. In the present case, the Operational Creditor has not proposed any name of the Interim Resolution Professional in Part-III of the petition. This Tribunal therefore appoints **Ms. Balasubramanian Mekala with Registration No. IBBI/IPA-002/IP-N00675/2018-2019/12416]** (AFA valid upto 31.12.2025) to act as Interim Resolution Professional for the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Code, more specifically in terms of Section 15, 17, 18 of the Code and file the report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

15. As a consequence of the application being admitted in terms of Section 9(5) of the Code, the moratorium as envisaged under the



provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Operational 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 respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other



law for the time being in force, a licence, permit, registration, quota, concession, clearance 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 or a similar grant or right during moratorium period;

16. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the



moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
 - (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any Operational sector regulator or any other authority;
 - (b) a surety in a contract of guarantee to a corporate debtor.

17. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

- (4) The order of moratorium shall have effect from the date of such order 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 Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

18. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)** to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

19. Based on the above terms, the petition **CP(IB)151(CHE)/2024** stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named is also furnished with copy of this Order forthwith by the Registry, who will also communicate the



initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

Sd/-
VENKATARAMAN SUBRAMANIAM
Member (Technical)

Sd/-
SANJIV JAIN
Member (Judicial)