

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1647(ND)2019

In the matter of

**Mr. Kumud Mishra
H - 370, Old Seemapuri,
Delhi - 110095**

...Operational Creditor

Versus

**M/s Reverse Logistics Company Pvt. Ltd.
Khasra No. 337, Choumos - 2
Sultanpur, Delhi - 110030**

...Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 16.09.2019

Coram:

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SMT. SAROJ RAJWARE, HON'BLE MEMBER (T)**

**Present for the Petitioner.: Mr. Sudhir Dash, CA
Present for the Respondent: Mr. Avinash Mohapatra, Advocate
Ms. Annu Aggarwal, PCS**

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

1. This petition has been filed invoking the provision of section 9 of the Insolvency and Bankruptcy Code, 2016.
2. As per averments, the Operational Creditor was employed as an Assistant Manager (Finance) by the Corporate Debtor on 20th November, 2012 and remained in its employment till his services were

terminated without granting him the notice period of one month on the ground that the company was not in a position to pay its employees/Vendors.

3. The petitioner has filed the present petition seeking recovery of the unpaid salary for the months of October, November and December 2018 i.e. @ Rs. 47,000/- per month, along with gratuity for seven years amounting to Rs. 1,89,808/- and the salary for his notice period of Rs. 47,000/-. The total amount being claimed is Rs. 3,77,808/-. Despite demanding the same, the Corporate Debtor has not responded. A demand notice dated 28th May 2019 under Section 8 of the Code failed to evoke any response constraining the petitioner to file the present petition for seeking Corporate Insolvency Resolution Process of the Corporate Debtor.
4. As per the affidavit filed under section 9(3)(b), no reply was received to the demand notice nor was any dispute raised with respect to the unpaid Operational Debt. Compliance of Section 9(3)(C) has been made by way of filing a certified copy of the bank statement in which the salary of the Corporate Debtor was being deposited.
5. Upon service of notice to the Corporate Debtor through the Court, Mr. Avinash Mahapatra, Advocate. He admitted the claim of the Operational Creditor, but submitted that the Corporate Debtor was not in a position to liquidate the Operational Debt. No reply was filed by the Corporate Debtor.

6. As no resistance to the prayer of the OC was raised by the Corporate Debtor despite the opportunity given, the petitioner presses for grant of his prayer. Accordingly, the petition is admitted. A moratorium in terms of Section 14 of the Code comes into effect forthwith, staying:

“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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;

(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.

Further,



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(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.*

(3) *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.*

(4) *Further, 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.”

7. The Operational Creditor has proposed the name of Mr. Pawan Kumar Agarwal as the IRP. His consent and eligibility are on record. Accordingly, we appoint Mr. Pawan Kumar Agarwal, Registration No. IBBI/IPA-001/IPP00852/2017-18/11435, Email Id:



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irp@ppgalegal.com, Mob: - 9971761073, Resident of: L-2/37A, GF, Ekta Square, Kalkaji, New Delhi - 110016 as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17,18,20 and 21 and file his report.

8. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be duly accounted for by the IRP and shall be reimbursed by the CoC to the Operational Creditor to be recovered as CIR costs.
9. Copy of the order be communicated to both the parties as well as to the IRP.
10. To come up on 29th October, 2019.


(Saroj Rajware)
Member (T)


(Ina Malhotra)
Member (J)