

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**IBA/1062/2019**

*Under Section 9 r/w Rule 6 of the IBC, 2016*

**In the matter of Rocana Infrastructure Private Limited**

**B. Mathav, PCS**

No.92F/9B, Devarpuram Raod,  
Mahimai Complex, Tuticorin-628003.

**---Operational Creditor**

V/s

**Rocana Infrastructure Private Limited**

New No. 21, Old No. 23, Padmanabhan Street,  
T. Nagar, Chennai-600017.

**---Corporate Debtor**

**Order delivered on: 20.01.2020**

**Coram:**

**B. S.V. PRAKASH KUMAR, ACTING PRESIDENT**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Operational Creditor: *Shri. Audhesh Bairwa, Advocate*

*Shri. J. Catherine Sofia, PCS*

*Shri. Harshal Jariyal, Advocate*

For the Corporate Debtor : *Shri. D. G.Hariprasath, Advocate*

*Shri. Praveen S. Purohit, Advocate*

*Shri. K. Sevugan, Advocate*

**ORDER**

**Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

**Order Pronounced on: 20.01.2020**

It is an Insolvency and Bankruptcy Application filed u/s.

9 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by

B. Mathav (hereinafter called as “Operational Creditor”) for initiation of Corporate Insolvency Resolution Process (hereinafter called as “CIRP”) against M/s. Rocana Infrastructure Private Limited (hereinafter called as “Corporate Debtor”) on the ground the Corporate Debtor defaulted in paying the amount ₹2,83,185 (Principal ₹2,79,000 and interest ₹4,185 at the rate of 18%) as on 16.05.2019.

2. The Applicant counsel submitted that he is engaged in providing consultation and services regarding the secretarial work. The Corporate Debtor approached the Applicant and requested to provide secretarial service such as filing of returns, opinion, corporate restructuring process and all other services like liaising and licensing under the purview of a Company Secretary scope of work. The Applicant completed all the work pertaining to opinion, corporate restructuring process and other secretarial services. The business relation existed between the Operational Creditor and Corporate Debtor between January 2019 and May 2019. The Applicant raised two invoices (Invoice dated 05.04.2019 for ₹1,00,000 and another invoice

dated 07.05.2019 for ₹1,79,000) consequent upon the services rendered to the Corporate Debtor for the above period.

3. The Operational Creditor further submitted that the Corporate Debtor avoided making payment and clearing dues owed to the Operational Creditor as per the invoices raised. The Applicant/OC made several attempts to contact the Corporate Debtor but in vain. Being frustrated due to inaction on the part of Corporate Debtor to service the outstanding liability, the Applicant/Operational Creditor issued a demand notice dated 14<sup>th</sup> June 2019 to the registered office of the Corporate Debtor under Form-III of the IBC, 2016, calling for repayment of the unpaid operational debt. The Applicant counsel has filed proof of service in this regard.

4. The Corporate Debtor counsel after receiving the demand notice on 17<sup>th</sup> June 2019, the filed counter affidavit on 13<sup>th</sup> November 2019 stating that the company is currently having no business and has no running operations and is not in a position to generate any revenue. The Corporate Debtor has further contended in the reply that the company is completely

insolvent and has no assets even to make good the losses incurred. Having known this fact, the Operational Creditor provided his services based on the understanding that the Corporate Debtor would refer clients to the Applicant in exchange for the services rendered by him.

5. On hearing the submissions of Operational Creditor counsel as well as the Corporate Debtor counsel and having perused the material documents, this Adjudicating Authority is of the view that the Operational Creditor has produced enough evidence to prove that the Corporate Debtor has failed in making payment for the services availed. The Applicant has also established debt and default. In view of the above, this Tribunal is of the opinion that the claim of Operational Creditor qualifies as an operational debt for which the Corporate Debtor has failed to make payment in spite of several reminders.

6. We are of the view that this Operational Creditor has proved existence of debt and default. Moreover, no dispute has been raised by the Corporate Debtor before the receipt of demand notice. Therefore, this Bench is hereby to admits this

Application. Since the Operational Creditor has not proposed any name of the Interim Resolution Professional (IRP), this Bench hereby appoint Ms. Renuka Devi Rangaswamy as Interim Resolution Professional from the list provided by the IBBI. This Operational Creditor is further directed to pay remuneration of the IRP, public announcement expenses and other expenses, if any, until constitution of CoC. Accordingly, this IBA/1062/2019 is hereby admitted with the following directions:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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;

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(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 (SARFAESI Act);

(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.

(II) 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.

(III) 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.

(IV) That 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 Bench approves the resolution plan under sub-section (1) of

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section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints Ms. **Renuka Devi Rangaswamy** as **IRP**, having **Registration Number [IBBI/IPA-001/IP-P01863/2019-2020/12871]**, **E-Mail: jrassociatescbe@gmail.com**, to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

7. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

**-SD-**  
**(S. VIJAYARAGHAVAN)**  
**MEMBER (Technical)**

**-SD-**  
**(B. S.V. PRAKASH KUMAR)**  
**Acting President**

KNP/TJS