

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1152(ND)/2019

In the matter of

Nirmala Devi Gupta
Sole Proprietor of
Surendra Steel Sales
Through her Power of Attorney, Mr. Mukesh Gupta
Head Office at: Plot No. 296,
Industrial Area, Phase-I,
Chandigarh, U.T.-160 002

Also at:
Branch Office: Chandigarh Ambala
Highway, Zirakpur,
Distt. Mohali, Punjab-140603

.....Operational Creditor

V/s

M/s. Immortal Buildcon Pvt. Ltd.
Registered Office At:
1 Main Road, Maujpur, Delhi
North East, Delhi-110053

Also At: 154, 5th Floor, Plot No. A41,
Tower A, The Corenthum,
Sector 62, Noida, U.P- 201 301

Also At: GH-16A, Sector 1,
Greater Noida, Uttar Pradesh- 201 306

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on 29.07.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present:

Ms. Rachita Garg, Advocate for the Petitioner
Respondent proceeded ex parte

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

The present petition has been filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (herein after referred to as the "Code"), praying for initiation of the Corporate Insolvency Resolution of the Respondent/Corporate Debtor for its inability to liquidate its outstanding dues.

2. As per averments, the petitioner is the sole proprietor of her business operated under the name & style of M/s. Surendra Steel Sales. During the course of business operations, the Operational Creditor had supplied TMT Steel to the Corporate Debtor to be used in construction business. Invoices were raised as and when the goods were supplied and a running account was maintained. As per the terms and conditions of supply, delay in payment beyond 30 days, made the Corporate Debtor liable to pay interest @ 24% per annum.

3. The Operational Creditor has averred that since March 2017, no payment has been received by them from the Corporate Debtor. Goods worth Rs. 26,85,354/- had been supplied of which Rs. 15 lakhs only have been received, leaving an outstanding liability of Rs. 11,85,353/- Apart from this, claim has also been made towards interest on account of delay as per the terms and conditions printed on the invoices. Since the



Corporate Debtor failed to liquidate its outstanding dues, the Operational Creditor stopped further supplies after July 2017. A demand notice dated 24th October, 2018 was issued. The Corporate Debtor had failed to bring the existence of any dispute, or proof of repayment of the operational debt, entitling the Operational Creditor to file the present Petition. It is averred that on account of the accruing interest liability, the Operational Creditor is entitled to a sum of Rs. 1,21,50,397.88/-.

4. The present petition has been filed in the required format along with necessary compliance. Upon issuance of notice by this Bench, none has appeared on behalf of the Corporate Debtor. They were therefore proceeded ex parte.

5. Keeping in view that there is no resistance to the prayer made herein nor any pre-existing dispute brought to the notice of this Bench, the Operational Creditor is entitled to the prayer made in the petition.

6. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of 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 Securitisation 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,

(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) 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. Ranjan Chakraborti as the IRP in this case. His particulars are: Registration No. IBBI/IPA-002/IP-N00541/2017-18/11618, address: 17D/522, Konark Enclave, Vasundhara, Ghaziabad, U.P-201012, email id: ranjanns@gmail.com . His consent in Form 2 as well as copy of his certificate of registration with the IBBI are on record. We therefore confirm him as the IRP in this case. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21. The IRP shall file his report within 30 days as per statutory requirements.
8. Copy of the order be communicated to both the parties as well as to the IRP.
9. To come up on 4th September, 2019 for further consideration.



(V.K. Subburaj)
Member (T)



(Ina Malhotra)
Member (J)