

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

**CP(IB)/78(CHE)2023**

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

*In the matter of **M/s. AMRL Hitech City Limited***

**M/s. Swach Environment Private Limited,**

CIN: U74999WB2011PTC165886

Registered Office:

Unit 130A, Infinity Business Centre, 18<sup>th</sup> Floor,  
Plot No. G1, Block GP, Sector V.

Salt Lake City,  
Kolkata-700 091,  
West Bengal, India

*... Applicant / Operational Creditor*

*-Vs-*

**M/s. AMRL Hitech City Limited,**

CIN:U70101TN2000PLC044980

Registered Office:

NH 7, AMRL SEZ, Nanguneri Taluk,  
Nanguneri,

Tirunelveli-627 108, Tamil Nadu

*... Respondent / Corporate Debtor*

*Order Pronounced on **1<sup>st</sup> August, 2023***

CORAM:

**SANJIV JAIN, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Operational Creditor: Mr. G. Sriram, PCS*

*Mr. Rohit Sharma, PCS*

*For Corporate Debtor: Mr. K.P. Sanjeev Kumar, Advocate*

*Mr. Sidharth. U, Advocate*

*Mr. V.P. Aravind, Advocate*



**ORDER**

(Hearing conducted through VC)

**Per: SANJIV JAIN, MEMBER (JUDICIAL)**

This application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **M/s. Swach Environment Private Limited**, (hereinafter referred to as "**Operational Creditor/Applicant**") against **M/s. AMRL Hitech City Limited** (hereinafter referred to as "**Corporate Debtor/Respondent**") for initiating Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor.

2. The Applicant has given the details of the Corporate Debtor in Part-II of the application as per which, the Corporate Debtor was incorporated on 19.05.2000 with share capital of Rs.80,00,00,000/- (Rupees Eighty Crores only). Its Registered Office is situate at NH-7, AMRL SEZ, Nanguneri Taluk, Nanguneri, Tirunelveli-627 108, Tamil Nadu It has given the details of the sum (Rs. 3,08,26,849/-) and date of default as 31.03.2019. In Part-V, the Applicant has given the details of the documents submitted with the application.



3. The case of the Applicant in brief is that, it had provided services regarding water and waste water management to the Respondent during the Financial year 2016-17. It had raised the invoices for a sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) dated 31.03.2016 payment of which was made by the Corporate Debtor. The Corporate Debtor being satisfied with its work, decided to avail annual services from the Operational Creditor for constructing, operating, repairing and maintaining the water and waste water treatment facilities within the SEZ of the Corporate Debtor. A MOU was entered into. Invoices were raised onto the Corporate Debtor on 31.03.2017 and 31.03.2018 which were cleared by the Corporate Debtor during the Financial Year 2017-18 in 8 instalments and on 31.03.2018 respectively. The last invoice was raised on 31.03.2019 for an amount of Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only) which however remained pending/unpaid.

3. It is stated that the Operational Creditor vide email dated 12.08.2019, enquired from the Corporate Debtor about depositing the TDS towards invoice dated 31.03.2019 which was replied vide a email dated 31.08.2019 that the TDS has been deposited against the said invoice. It is alleged that the Corporate Debtor neither deposited TDS towards the said invoices nor made the payment against the invoice. However, the Corporate Debtor vide letter

dated 31.03.2020 acknowledged the debt of Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only). The Operational Creditor vide email dated 22.03.2021 requested the Corporate Debtor to release the outstanding dues towards the invoice but did not get any response from the Corporate Debtor. The Operational Creditor thereafter served the Corporate Debtor a demand notice under Section 8 of IBC dated 16.03.2023 demanding a sum of Rs.3,08,26,849/- (Rupees Three Crores Eight Lakhs Twenty Six Thousand Eight Hundred and Forty Nine only) which included principal amount of Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only) and interest @ 18% per annum calculated from 31.03.2019 till 15.03.2023 amounting to Rs.1,28,26,849/- (Rupees One Crore Twenty Eight Lakhs Twenty Six Thousand Eight Hundred and Forty Nine only). It is stated that the demand notice was duly served upon the directors of the Corporate Debtor but they did not respond to the notice nor paid any sum.

5. On getting notice of the application, the Respondent filed an affidavit stating that the Corporate Debtor had availed the services of the Operational Creditor for constructing, operating, repairing and maintaining the "water and waste water treatment facilities" for treatment and distribution/supply water within the SEZ of the Respondent/Corporate Debtor. The parties also entered into a Memorandum of Understanding ("MOU") on 07.02.2017. It is

stated that the Corporate Debtor duly settled the invoice raised upto 31.03.2018 in its entirety. However, the Corporate Debtor could not settle the invoice dated 31.03.2019 amounting to Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only). It is stated that the Corporate Debtor was in deep financial constraint and admitted its liability.

6. We have heard Learned Counsels for the parties and perused the records.

7. A perusal of record reveals that the Respondent had availed the services relating to "water and waste water management" from the Applicant. A MOU to this effect was signed by the parties. The Respondent had made the payments upto 31.03.2018. However, it failed to make the payments in respect of the invoice raised on 31.03.2019 for an amount of Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only). The services were in relation to SEZ project at Nanguneri, Tamil Nadu. The Respondent in its reply affidavit, has admitted the debt and stated that due to financial constraints, it could not settle the outstanding dues of Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only). The Corporate Debtor, in clear terms, has admitted the debt and default. The invoice is of date 31.03.2019. The Corporate Debtor had acknowledged the debt vide letter dated 31.03.2020. This application has been filed on 30.03.2023 i.e within the period of three years from the date the

amount became due. The Respondent in its reply has also acknowledged debt and its liability. The amount of debt is more than Rs.1.00 Crore (Rupees One Crore only), the debt and default is admitted by the Corporate Debtor.

8. Thus, taking into consideration the facts and circumstances of the case as well as the position of Law, We therefore allow the application filed by the Operational Creditor as the default is more than Rs.1.00 Crore. The Corporate Debtor **M/s. AMRL Hitech City Limited** is admitted to CIRP under Section 9(5) of the IBC, 2016.

9. Since the Operational Creditor has not proposed the name of the Interim Resolution Professional in Part-III, this Tribunal based on the latest list furnished by the Insolvency and Bankruptcy Board of India applicable for the period between July 2023-December 2023, hereby appoints **K. Gaurav Kumar having Registration Number [IBBI/IPA-002/IP-N01241/2022-2023/14243]** (AFA valid till 04/01/2024) as the "Interim Resolution Professional". The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Sections 15, 17, 18 of the Code 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.

10. 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 the 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 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 respondent.

**Explanation.**-For the purposes of this subsection, 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;

11. 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 the 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 arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

12. 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 the 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.

13. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/-** 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 her in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



14. Based on the above terms, CP(IB)/78(CHE)/2023 stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come into effect as of this date. A copy of the order shall 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 shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI is also furnished with a 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 -

**SAMEER KAKAR**  
MEMBER (TECHNICAL)

*Suguna*

- Sd -

**SANJIV JAIN**  
MEMBER (JUDICIAL)