NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (Court-II)

(IB)-3014(ND)2019

IN THE MATTER OF:

Gayatri Steels
Through its Sole Proprietor
Mrs. Raj Jindal
160, B.S. Road, Loha Mandi
Ghaziabad-201002 **...Operational Creditor**

VERSUS

Advance Power Controls Limited
25A, Pocket C, SFS DDA Flats
Mayur Vihar-III
Delhi 110096 **... Corporate Debtor**

Section: 9 of IBC, 2016

Judgement Delivered on: 23.01.2020

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner : Mr. Milan Singh Negi and Mr. Kunal Godhwani, Advocates

For the Respondent : None

JUDGEMENT

PER SHRI L. N. GUPTA, MEMBER (T)

The present petition is filed under the Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s. Gayatri Steels, through its Sole Proprietor Mrs. Raj Jindal, with a prayer to initiate the Corporate Insolvency Resolution Process against M/s Advance Power Controls Limited (for brevity 'Corporate Debtor').

2. The Corporate Debtor namely, M/s Advance Power Controls Limited is a Company incorporated on 01.10.1997 under the provisions of Companies Act, 1956 with CIN No. U15122DL1997PLC089979, having its registered Office at 25 A, Pocket C, SFS DDA Flats, Mayur Vihar- III, Delhi-110096.

3. The Authorized Share Capital of the Respondent Company is Rs.5,00,00,000 Paid-up Share Capital of the Company is Rs.1,45,00,000 as per the Master Data of the Company annexed.

4. It is submitted by the Operational Creditor that it is engaged in the business of Iron and Steel and the Corporate Debtor is engaged in the business of Manufacturing of Electrical LT Panels.

5. It is further submitted by the Operational Creditor that during the course of the business, the Corporate Debtor has placed with it various Purchase Orders dated 30.05.2015, 12.06.2015, 06.07.2015 and 23.07.2015 for supply of shaper & section, CRCA Coils etc. ('goods'). To support the contention, the Operational Creditor has placed the copies of the said Purchase Orders on record.

6. It is stated by the Operational Creditor that against the aforesaid Orders, it had supplied goods to the Corporate Debtor and accordingly, raised invoices dated 15.06.2015, 01.07.2015, 08.07.2015, 28.07.2015, 01.08.2015 and 12.08.2015.

7. It is submitted by the Operational Creditor that the last payment made by the Corporate Debtor was of Rs.1,00,000 made on 12.05.2017.

8. It is further submitted by the Operational Creditor that the net outstanding dues against the Corporate Debtor amount to Rs.26,99,669 inclusive of interest, for which it had issued a Demand Notice under Section 8 of IBC 2016 vide Speed Post at the Registered Office of the Corporate Debtor, which was served on 07.08.2019.

9. That the Operational Creditor in their Affidavit under Section 9(3)(b) of IBC, 2016 had made specific averment regarding non-receipt of Notice of any dispute issued by the Corporate Debtor. Further, the Operational Creditor has annexed Bank Statement from 01.05.2017 to

09.09.2019, issued by HDFC Bank, Branch Raj Nagar, Ghaziabad in compliance of the Section 9(3) (c) of IBC, 2016.

10. As none appeared on behalf of the Corporate Debtor, during the proceedings, the Corporate Debtor was proceeded ex-parte vide Order dated 20.12.2019 passed by this Tribunal.

11. In the given facts and circumstances, the present petition being complete and establishing the default in payment of the operational debt beyond doubt, the Petitioner is entitled to claim its dues. The amount of default being above Rs.1,00,000 for the invoices, the Petition is admitted in terms of Section 9(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry :

> "(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;
>
> (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."

12. The Operational Creditor has not proposed the name of any IRP. Therefore, this Bench based on the list furnished by IBBI, appoints Mr. Ashok Kumar Jalan, as an IRP having Registration No. IBBI/IPA-001/IP-P00168/2017-18/10337 Email: akjalan@jalanca.com, Mobile No. 9312279229) subject to the condition that no disciplinary proceedings are pending against the IRP named and disclosures as required under IBBI Regulations, 2016 are made within a period of one week from this order. The IRP is directed to take the steps as mandated under this Code specifically under Section 17, 18, 20 and 21 of IBC, 2016.

13. The Operation Creditor is directed to deposit Rs.2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

14. A copy of this Order shall be communicated to the Operational Creditor, the Corporate Debtor and the IRP mentioned above, by the Registry of this Tribunal. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their records.

-Sd-

(L. N. Gupta)
Member (T)

-Sd-

(Ina Malhotra)
Member (J)