

✓

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW
DELHI
COURT-VI

IB - 2157/ND/2019 filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

*In The Matter Of **Cross Road Buildcon Pvt. Ltd***

Ultratech Cement Ltd.

...Operational Creditor

Versus

Cross Road Buildcon Pvt Ltd.

...Corporate Debtor

Order Delivered on 8th November, 2019

Coram:

SHRI. CH. MOHD. SHARIEF TARIQ, MEMBER (JUDICIAL)

DR. V.K. SUBBURAJ, MEMBER (TECHNICAL)

For the Operational Creditor: Ms. Deepa Sharma, Adv.
Mr. Amarjeet Singh, Adv.
Mr. Kunal Nath, Adv.

ORDER

Per. CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration is an application filed under Section 9 of the IBC with the prayers to initiate CIR process against the Corporate Debtor, declare moratorium and appoint IRP.

2. The Ld. Counsel for the Operational Creditor is present. There is no representation on behalf of the Corporate Debtor. As seen from the order dated 17.10.2019, the Corporate Debtor was proceeded **ex parte**. The Ld.

Counsel for the Operational Creditor submitted that the Corporate Debtor gave pumping orders dated, 18.04.2016 and 01.12.2016 for supply of UltraTech Concrete. In pursuant to supply orders the Operational Creditor has supplied material during the year 2016-17, to the Corporate Debtor and raised invoices.

3. As per the contention of the Operational Creditor, the Corporate Debtor failed to issue VAT-D1 Form as contemplated by the terms and conditions of the orders issued for supply of Ultra Tech Concrete. On the ground mentioned a claim of Rs. 2,90,310.19/- plus interest was made by the Operational Creditor, as reflects from the calculation filed by the Ld. Counsel for the Operational Creditor. The calculation sheet pertaining the VAT difference against D1 Form is placed on record.

4. It is noted that the matter is pertaining to the invoices raised w.e.f. 19th April 2016 to 26 March 2017 and the claim against VAT D1 Form was to be satisfied within 10 days from the date of raising the invoices. Therefore, the application is within the period of limitation. The Operational Creditor has issued demand notice under Section 8 of the IBC on 4th April 2019 which was delivered on 6th April, 2019 to the Corporate Debtor, to which no reply was given. The Operational Creditor has fulfilled the requirements of Section 9(3)(b)and(c) by placing on record the Affidavit, wherein, it is deposed that the Operational Creditor has not received any notice of dispute from the Corporate Debtor relating to the unpaid operational debt. The copy of the ledger is placed on record.

5. The Operational Creditor has fulfilled all the requirements of law. Therefore, the application is **admitted** and the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily be completed within 180 days, reckoning from the day this order is passed.

6. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, 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;
- (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 (54 of 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.

7. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, 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;

(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 (54 of 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.

8. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

9. The Operational Creditor have not proposed the name of IRP, therefore Mr. Devendra Kumar Lodha is appointed as IRP, whose name appears in the Panel of Insolvency Professionals recommended by the IBBI. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

10. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of I&B Code, 2016. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor shall extend all assistance and co-operation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

11. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the Corporate Debtor's assets including Bank Accounts., and make compliance with this Order as

per the provisions of I&B Code, 2016. The address details of the IRP are as follows: -

Mr. Devendra Kumar Lodha

IBBI/IPA-001/IP-P01112/2018-19/11814

Address: Office No. 105, 1st Floor, 6 a/1, WEA,
Karol Bagh, New Delhi-110005

E-mail Id: cadklodha@gmail.com

Mobile No.: 9899041490.

12. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

13. The Order is dictated and pronounced in open court in the presence of the Counsel for Operational Creditor.

S- d

(V.K. SUBBURAJ)
Member (Technical)

S- d

(Ch. MOHD. SHARIEF TARIQ)
Member (Judicial)