

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 277/9/HDB/2019
U/s 9 of IBC, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of M/s. Om Shakti Renergies Limited

M/s. Isgec Covema Limited,
D-860, New Friends Colony,
New Delhi-110065.

And also at:

M/s. Isgec Covema Limited,
A-4, Sector - 24, Noida,
Uttar Pradesh - 201301.

Both Rep. by Constituted Attorney,
Mr. Kapil Kumar Singh.

...Applicant/
Operational Creditor

VERSUS

M/s. Om Shakti Renergies Limited,
H.No. 8-2-684/3/15, Bhavani Nagar,
Road No. 12, Banjara Hills,
Hyderabad-500034

...Corporate Debtor/
Respondent

Date of order: 16.09.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

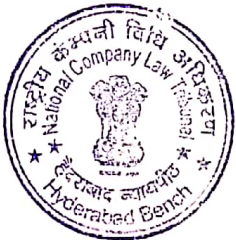
Hon'ble Shri Narender Kumar Bhola, Member(Technical)





disregard to the agreement out of total outstanding released part payment and delay the balance amount.

- b. The applicant has sent letters dated 18.02.2004, 08.03.2004 and 28.05.2004 calling upon the respondent to make the payment of the amount claimed by the applicant. The applicant by letter dated 29.05.2004 submitted the proforma invoice and called upon the respondent to release the retention amount of Rs.3,20,000/- besides initial huge outstanding amount of Rs.21,40,000/- (totaling -Rs. 24,60,000/-). However, respondent did not release any amount against the outstanding amount of Rs.24,60,000/-
- c. The applicant had sent a legal notice dated 12.05.2006 to the respondent calling upon the respondent to make payment of the debt along with interest at the rate of 24% p.a. for which the respondent replied to the legal notice dated 22.05.2006 making frivolous claims and bald allegations.
- d. The applicant thereafter sent a notice dated 31.08.2006 to the respondent invoking the arbitration clause and initiated arbitration proceedings for recovery of the amount. The applicant made an Arbitration Application No. 69/2009 before the Arbitral Tribunal. The tribunal had passed an award dated 30-05-13 holding the corporate debtor liable to pay an amount of Rs. 65,18,000/- along with an interest of 24% per annum computable from the date of the claim statement till the date of actual payment. A Copy of the arbitral award is annexed as **Annexure – C**.
- e. The Applicant further averred that the corporate debtor preferred a petition under Section 34 of the Arbitration and Conciliation Act, 1996 before the Hon'ble XXIV Additional Chief Judge, City Civil Court Hyderabad to set



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F. Thus, Operational Creditor filed documentary proof in support of the claim and also placed evidence that Corporate Debtor committed default. Therefore, petition is liable to be admitted.

4. We have heard the counsel for operational creditor. This Petition is filed by operational creditor under section 9 of I&B Code. Operational creditor filed Form-5 and furnished the information with regard to the operational debt which is committed default by corporate debtor.

5. The notice was served on the corporate debtor. Postal track record is filed through Memo. Learned counsel contended that corporate debtor has not replied or failed to defend. The claim is submitted within period of time prescribed under Limitation Act, 1963. Thus, the claim is within limitation. There is no representation or reply by the Corporate Debtor. Corporate debtor was served with notice before admission however, corporate debtor remained absent and it did not contest the claim.



6. In view of the above we are of the considered view that the operational creditor has been able to establish un disputed debt against corporate debtor and the corporate debtor has been in default with regard to the payment of dues to the operational creditor amounting to Rs.1,89,02,200/-. The Operational creditor is able to establish through documents that corporate debtor committed default of operational debt and there is no pre existing dispute. Thus, this Petition is complete and is liable to be admitted.

7. The operational creditor in his application filed under section 9 before this Tribunal has requested the Tribunal to suggest the name IRP as per the discretion of this Tribunal. The Insolvency and Bankruptcy Board of India (IBBI) has recommended a panel of Insolvency Professionals for appointment as Insolvency Resolution Professional for the

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period 1st July 2019 to 31st December, 2019 in compliance with Section 16(3)(a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints Mr. Chillale Rajesh, having registration number IBBI/ IPA-001/ IP-P00699/ 2017-2018/11226, Mob No. 9866294434 e-mail id: chillalerajesh@yahoo.co.in as Interim Resolution Professional. The aforesaid interim resolution professional has no disciplinary proceedings pending against him. He shall file his written communication and all relevant paper immediately before Registrar of this Tribunal but not later than two days.

8. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

(1) The Bench hereby prohibits 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; Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(2) 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.

(3) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the



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Central Government in consultation with any financial sector regulator.

(4) The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, inter alia, by Sections 15, 17,18,19,20, and 21 of the Code. He must follow best practices and principles of fairness which are to apply at various stages of CIRP. His Conduct should be above Board and independent and he should work with utmost integrity and honesty. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor are under legal obligation under Section 19 of the code to extend every assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the Corporate Debtor. The interim resolution professional is under duty to protect and preserve the value of the property of the Corporate Debtor and shall perform all his functions strictly in accordance with the provisions of the Code.



(5) The Petitioner is directed to pay a sum of Rupees 2,00,000/- (Two Lakhs Only) to the interim resolution professional to meet out the expenses to perform the functions assigned to him in accordance with regulation 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This shall, however, be subject to adjustment by the committee of creditors as accounted for by interim resolution professional and shall be paid back to the petitioner.

(6) That the order of moratorium shall have effect from 16.09.2019 till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order

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for liquidation of Corporate Debtor under Section 33,
whichever is earlier.

(7) That the Public announcement of Corporate
Insolvency Resolution Process shall be made immediately as
specified under section 13 of the code.

Accordingly, this Petition is admitted.



NK
16-9-2019
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

Ratakonda Murali
16.9.19
RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani

[Signature]
Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER *C/18/Nb-227/10/1723/2019.*
निर्णय का तारीख
DATE OF JUDGEMENT... *16/9/19.*
प्रति तैयार किया गया तारीख
COPY MADE READY ON... *18/9/19*