

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

IBA/728/2019

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. G.E.T. POWER LIMITED

M/s. AARTECH SOLONICS LIMITED

---Operational Creditor

V/s

M/s. G.E.T. POWER LIMITED

---Corporate Debtor

Order delivered on: 30.08.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Shri. Deepan Uday, Advocate*

For the Corporate Debtor : *Shri. P.N Vignesh, Advocate*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 27.08.2019

It is an Insolvency & Bankruptcy Application (IBA) filed u/s 9 of the Insolvency & Bankruptcy Code, 2016 ("**the Code**") by Operational Creditor for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor on the ground the

Corporate Debtor defaulted in paying an amount of ₹12,40,000 as stated in the Company Application.

2. On Perusal of this application, it appears that this Corporate Debtor has placed Purchase Order dated 30.06.2011 with the Operational Creditor for supply of electrical goods, in pursuance thereof, this Operational Creditor had supplied electrical goods by raising invoice dated 15.03.2012 for ₹12,40,000 claiming the value of goods including tax. To prove that this material was supplied to the Corporate Debtor, the Operational Credit filed delivery challan, dispatch instructions and ledger accounts reflecting the invoice amount due and payable by the Corporate Debtor. Thereafter, on the demand made by this Operational Creditor, the Corporate Debtor had paid ₹6,68,485 on 24.10.2012. As to the remaining balance of ₹5,71,515 due and payable, this Corporate Debtor having not paid the same, this Operational Creditor had initiated proceedings against this Corporate Debtor before Madhya Pradesh Micro and Small Enterprises Facilitation Council, Bhopal, upon which, an award was passed on 23.03.2018 holding that the

Corporate Debtor shall pay this claim of ₹5,71,515 to the Operational Creditor.

3. Ever since, this Corporate Debtor having not paid the award amount despite the Operational Creditor giving additional time to settle the dues and reminded the Corporate Debtor to pay the claim amount to the Operational Creditor, finally, when no payment came from the Corporate Debtor, this Operational Creditor issued Section 8 Notice on 12.01.2019 by hand demanding payment of the amount aforesaid. On receipt of Section 8 notice, on the same day, i.e. on 12.01.2019, the Corporate Debtor replied admitting the liability that this Corporate Debtor owed to pay ₹5,71,515 to the Operational Creditor, but sought additional time to pay this claim to the Operational Creditor.

4. Today, the counsel appearing on behalf of the Corporate Debtor has stated that it is a fact that the Corporate Debtor has to pay the money to the Operational Creditor as stated in the application but whereas owing to financial problems, the Corporate Debtor is not in a position to pay the same immediately.

5. On looking at the facts available, we are of the view that this Operational Creditor has proved existence of debt and default, therefore, We hereby admit this Company Application by appointing Mr. Senthil Kumar as Insolvency Resolution Professional (IRP) looking at the consent given by the Operational Creditor stating that this Operational Creditor would pay remuneration to the IRP and the expenditure thereto until constitution of CoC.

6. In view of the aforesaid reasons, this IBA/728/2019 is hereby **admitted** with the following directions:

(I) That Moratorium is hereby declared prohibiting all of the following actions, 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 (SARFAESI Act);

(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.

(II) 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.

(III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(IV) That the order of moratorium shall have effect from 05.03.2019 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 for liquidation of corporate debtor under section 33, as the case may be.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mr. Senthil Kumar** as **Interim Resolution Professional (Reg.No. IBBI/IPA-001/IP-P01070/2017-2018/11761), F-2, Rohini Homes, 171, 5th Street, Murugu Nagar, Velachery, Chennai-600042** with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

7. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-Sd-

(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-

(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/TJS