

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

**(IB)-2706(ND)2019**

**IN THE MATTER OF:**

**Madhu Khandelwal  
Proprietor of Tatar Trading Company  
1st Floor, Somani Building, Loha Mandi  
Sansar Chander Road  
Jaipur-302001**

**...Operational Creditor**

**VERSUS**

**M/s Nice Projects Limited  
C-56, Kalkaji,  
New Delhi-110019**

**... Corporate Debtor**

**Section: 9 of IBC, 2016**

**Judgement Delivered on: 07.02.2020**

**CORAM:**

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

For the Petitioner : Mr. Arjun Asthana, Advocate

For the Respondent : Mr. Vinod Chaurasia, Advocate



(IB)-2706(ND)2019 Madhu Khandelwal  
vs M/s. Nice Projects Limited

## **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 Madhu Khandelwal, Proprietor of M/s Tatar Trading Company (for brevity 'Operational Creditor'), with a prayer to initiate the Corporate Insolvency Resolution Process against M/s. Nice Projects Limited (for brevity 'Corporate Debtor').

2. The Corporate Debtor namely, M/s. Nice Projects Limited is a Company incorporated on 27.04.2004 under the provisions of Companies Act, 1956 with CIN No. U45201DL2004PLC126075, having its registered Office at C-56A. Kalkaji, New Delhi-110019.

3. The Authorized Share Capital of the Respondent Company is Rs.25,00,00,000 and its Paid-up Share Capital is Rs.13,57,50,000.

4. It is submitted by the Operational Creditor that the Corporate Debtor is engaged in the business of construction of residential complexes, construction of warehouses & allied buildings, construction of plants, construction of library buildings, etc.



5. It is submitted by the Operational Creditor that Corporate Debtor had raised two purchase orders bearing No. JD18POM000136 dated 12.03.2018 and JD19POM000006 dated 13.04.2018 for purchase of TMT- Steel 8 MM DIA, TMT-Steel 10 MM DIA, TMT- Steel 12MM DIA, TMT-Steel 16 MM DIA & TMT- Steel 25 MM DIA.

6. It is stated by the Operational Creditor that the goods were supplied vide two invoices bearing No. GST/2017-18/235 dated 10.03.2018 and GST/2018-19/002 dated 16.04.2018 amounting to Rs.13,79,098 and Rs.23,97,916 respectively.

7. It is stated by the Operational Creditor that the total liability of the Corporate Debtor comes to Rs.37,77,014 for which it had sent a Demand Notice dated 12.08.2019 under Section 8 of the IBC 2016 vide Speed Post at the Registered Office of the Corporate Debtor. It is further submitted by the Operational Creditor that the Corporate Debtor had not replied to the Demand Notice. The same has been averred in its Affidavit filed under Section 9(3)(b) of IBC, 2016.

8. That despite opportunities, the Corporate Debtor did not file its reply. Further, during the course of arguments, the Corporate Debtor failed to give satisfactory reasons as to why the CIR Process shall not be initiated against it. The Operational Creditor has also annexed copy of dishonored Cheque bearing No. 557253 dated 13.05.2018 for an amount



of Rs.13,79,098 and Cheque No. 309524 dated 13.06.2018 for an amount of Rs.23,97,916 along with returned memos of State Bank of India.

9. In the given facts and circumstances, the present Petition being complete and establishing the default in payment of the Operational Debt beyond doubt, the Operational Creditor is entitled to claim its dues. The amount of default being above Rs.1,00,000 for the unpaid 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.”



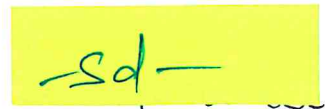
10. The Operational Creditor has not proposed any IRP. Therefore, this Bench based on the list furnished by IBBI, appoints Mr. Rajinder Kishore Duggal, having IBBI Registration No. IBBI/IPA-002/IP-N00271/2017-18/10829 (Email: [Duggal\\_rk@yahoo.com](mailto:Duggal_rk@yahoo.com) and Mobile No. 9988618660) 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.

11. 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.

12. A copy of this Order shall be communicated to the Operational Creditor, the Corporate Debtor and the IRP Mr. Rajinder Kishore Duggal (Email: [Duggal\\_rk@yahoo.com](mailto:Duggal_rk@yahoo.com) and Mobile No. 9988618660) 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.



**(L. N. Gupta)**  
**Member (T)**



**(Ina Malhotra)**  
**Member (J)**