

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 1

ITEM No.146
CP(IB) 265 of 2020

Proceedings under Section 9 IBC

IN THE MATTER OF:

Rebarteh Solutions Pvt Ltd
V/s
Steelera Engineers Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 16/11/2022

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in open court vide separate sheet.

-Sd-
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-Sd-
DR. MADAN B GOSAVI
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) No.265/9/NCLT/AHM/2020

*[An application filed under Section 9 of the Insolvency and
Bankruptcy Code, 2016]*

In the matter of:

M/s. Rebartech Solutions Private Limited

CIN: U51101MH2016PTC271622

Having its Registered Office at:

Flat No. 503, Building No.5, Accoladeg
C H Society, Hajuri Durga Road Thane,
Maharashtra – 400602, India

..... Operational Creditor/Applicant

Versus

M/s. Steelera Engineers Private Limited

CIN: U51909GJ2016PTC093021

Having its Registered Office at:

Plot No.67, Ward 2 – B, Adipur Kachchh,
Gujarat – 370 205, India

.....Corporate Debtor/Respondent

Order delivered on 16 November, 2022

Coram: **Dr. Madan B. Gosavi, Member (Judicial)**
Kaushalendra Kumar Singh, Member (Technical)

Appearance:

Mr. Chaitnya Joshi, Ld. Adv. for the Operational Creditor.
Mr. Ravi Pahwa, Ld. Adv. for the Corporate Debtor.



ORDER

1. This application under Section 9 of the Insolvency and Bankruptcy Code, 2016 has been filed by M/s. Rebartech Solutions Private Limited – the Operational Creditor to initiate Corporate Insolvency Resolution Process of the Corporate Debtor by name of M/s. Steelera Engineers Private Limited on the ground that the Corporate Debtor committed default in paying an operational debt of Rs.3,11,00,029/-.

2. The following facts are not in dispute.

(a) Under various invoices, in between 29.01.2019 to 18.01.2020, the Operational Creditor sold and supplied to the Corporate Debtor goods of various description. The Operational Creditor also provided services of providing these goods (pipes) and raised invoices towards the service charges in between 24.01.2019 to 28.05.2019. The Corporate Debtor made last payment of rupees ten lakhs on 30.12.2019 leaving balance of Rs.3,11,00,029/- to be unpaid. Hence, on 19.03.2020, the Operational Creditor served on the Corporate Debtor demand notice under Section 8 of the I. B. Code, 2016.

(b) The Operational Creditor stated that in spite of receipt of Demand Notice, the Corporate Debtor did not pay the debt nor replied the notice pointing out any dispute, hence, this application.



3. The Corporate Debtor has been served with the notice of this application. It has appeared in this proceeding through one of its directors Mr. Alok Mishra. He filed affidavit in reply.

4. We have gone through the contents of the affidavit in reply. The sum and substance of the defence in reply is that one of the employees of the Corporate Debtor, Mr. Arnab had placed the order of the goods with the Operational Creditor without any authority. Later on, said Mr. Arnab resigned. Fraud is committed by some of its employees. Hence. The Corporate Debtor is not liable to pay any amount.

5. When we took up this matter for hearing, the learned counsel Mr. Ravi Pahwa appearing for the Corporate Debtor made a statement acknowledging that his client M/s. Steelera Engineers Private Limited in-fact, does not wish to contest the claim. He further submitted that though some of its employee may have committed some mischief but ultimately the goods have been received and consumed by the Corporate Debtor. We, in our daily proceeding order dated 31.10.2022 have recorded this fact.

6. Even otherwise, on merits also, we hold that the Corporate Debtor does not have defence worth to be accepted by this Adjudicating Authority. There is no pre-existing dispute about the quality, quantity or the prices of goods supplied by the Operational Creditor to the Corporate Debtor. The demand notice has not been replied. This application is defect free.



7. The Operational Creditor suggested name of one Mr. Sanjay Kumar Singh, Resolution Professional for the appointment as an Interim Resolution Professional but his licence has been suspended by the Insolvency and Bankruptcy Board of India (“IBBI”). Hence, we cannot appoint him while passing the order of admission of the Corporate Debtor in Corporate Insolvency Resolution Process. We appoint the Resolution Professional from the list circulated to us by the IBBI. With these we pass the following order:

ORDER

- i) The Corporate Debtor, viz., **M/s. Steelera Engineers Private Limited** is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
- ii) The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
 - 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;
 - 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.
- iii) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
- iv) We hereby appoint **Mr. Malhar Rashmikant Mehta** having **Registration No. IBBI/IPA-001/IP-P01032/2017-2018/11686, (E-mail ID: malhar_mehta@hotmail.com)** to act as an IRP under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r. w. Regulation made thereunder:
- v) The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal



obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- vi) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
- vii) It is further directed that the supply of goods/service to the Corporate Debtor Company, if **continuing**, shall not be terminated or suspended or interrupted during moratorium period. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of Rs. 50,000/- (Rupees Fifty Thousand Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.
- viii) The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of



Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.

8. Accordingly, CP (IB) No. 265/9/NCLT/AHM/2020 stands admitted.

-Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-Sd-

DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)

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