

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No.553/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Bidue SRL,
Via Dell, Artigianato, Melara (Rovigo),
Italy

...Petitioner

v/s.

Bhor Engineering Private Limited,
S.No. 81, Shivane N.D.A. Road,
Pune (Maharashtra)-411023

...Corporate Debtor

Order delivered on: 11.10.2019.

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble Shyam Babu Gautam, Member (Technical)

For the Petitioner : Ms. Shivangi Agarwal, Advocate, i/b Dhruve Liladhar & Co.

For the Respondent: None Present.

Per: Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This Company Petition is filed by Bidue SRL of Italy (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Bhor Engineering Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment to the extent of Rs. 24,44,865.62 by invoking the provisions of Sections 8 & 9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petitioner submits that the Corporate Debtor approached the Petitioner for purchase of steel tubes, precision tubes, tubes for exhausts, automotive tubes, hydro farming tubes, electro welded steel tubes, welded tubes, agro industrial plants tubes and radiant pipes tubes. The Petitioner further submits that they supplied the aforesaid products to the Corporate Debtor and raised invoices for an amount of Euro 39,895.19.
3. The Petitioner also submits that the Corporate Debtor vide e-mail dated 24.02.2016 has requested to pay the aforesaid amount in 8 installments and subsequently on 26.04.2016 the Corporate Debtor had paid the first

installments of Euro 8,986.89 and failed to pay the remaining dues despite of several reminders and notices.

4. Since the Corporate Debtor failed to repay the outstanding dues, the Petitioner issued Demand Notice in Form-3 under Section 8 of the Code on 25.10.2017 demanding the balance of Rs.26,76,419.36 as on 25.10.2017 along with interest @12% per annum. However, the Corporate Debtor failed to repay the aforesaid dues despite receipt of demand notice and the Corporate Debtor neither replied to the same nor repaid the outstanding amount. The Petitioner filed affidavit under Section 9(3)(b) of the Code stating that the Corporate Debtor neither replied to the Demand Notice nor raised any dispute.
5. The Petitioner enclosed the statement of account which shows that the last payment was received from the Corporate Debtor on 09.09.2017 to the extent of Euro 4,986.89.
6. The Petitioner submits that the several notices were sent to the Corporate Debtor through R.P.A.D, but it was returned as endorsement "undelivered". Thereafter on 06.06.2019, this Bench has directed the Petitioner to serve the notice through substituted service by way of Publication in two daily newspapers and filed proof of service. After the substituted service was affected even then the Respondent failed to appear before the Adjudicating Authority and therefore Bench proceeded ex-parte against the respondent vide order dated 14.08.2019.
7. This Bench has gone into the details provided in the Form 5 and connected materials and after hearing the Petitioner is of the considered view that there is debt and default.
8. This Bench having been satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring Moratorium with the directions as mentioned below:
 - (a) That this 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 the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

- (b) 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.
- (c) 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.
- (d) That the order of moratorium shall have effect from 11.10.2019 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.
- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Rajesh S Shah, 635/84, Siddarth, Vijay Nagar Colony, Next to MSEDCL Building, Opp to Neelayam Theatre, Pune-411030, Registration No. IBBI/IPA-002/IP-N00592/2018-2019/11881, as interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties as well as IRP immediately.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)
/NP/

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)