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NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 30-5-18

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL

APPLICATION NUMBER	:	
PETITION NUMBER	:	**CP/157/(IB)/2018**
NAME OF THE PETITIONER(S)	:	**MMC DOORTECH SERVICE PVT LTD**
NAME OF THE RESPONDENT(S)	:	**DISHA INTERIORS PVT LTD**
UNDER SECTION	:	**9 RULE 6**

S.No.	NAME (IN CAPITAL)	DESIGNATION / REPRESENTATION BY WHOM	SIGNATURE
1.	K. GAURAV KUMAR	PCS representing petitioner	[signature]
2.	Ralph V. Manohar RALPH V. MANOHAR	Ralph V. Manohar Counsel for Respondent	[signature]

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

CP/157/(IB)/CB/2018

Under Section 9 of the Insolvency and Bankruptcy Code 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. MMC Doortech Services Private Limited
... Operational Creditor

Vs.

M/s. Disha Interiors Private Limited
... Corporate Debtor

Order delivered on 30th of May, 2018

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Operational Creditor(s) : Mr. K. Gaurav Kumar, PCS
For Corporate Debtor (s) : Mr. Ralph V. Monohar, Counsel

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP/157/(IB)/CB/2018 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w Rule 6 of the

Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. Heard the representative for the Operational Creditor and the Counsel for the Corporate Debtor and perused the record.

3. The Operational Creditor has claimed an outstanding debt to the tune of Rs.7,71,840/- as on 13.01.2017.

The brief facts of the case are that the Corporate Debtor has placed purchase orders for supply of Dorma Fittings from the Operational Creditor on various dates. The copies of the purchase orders are placed at pages 68 to 87 of the typed set filed with the Application. After supplying the materials ordered by the Corporate Debtor, the Operational Creditor raised Invoices totalling 15 in numbers. The copies of Invoices are placed at pages 17 to 54 of the typed set filed with the Application. Besides that, the details of Invoices raised, the amount paid and the date on which the Corporate Debtor made default reflects from the document placed at page 16 of the typed set filed with the Application.

4. The Corporate Debtor has caused appearance on 19.03.2018 in the matter and submitted that there is some difference as to the accounts of the parties with regard to the payment of the outstanding debt. Therefore, this Adjudicating Authority vide Order dated 13.04.2018 has appointed Mr. S. Mohan as Chartered Accountant (CA) to reconcile the accounts of both the parties and the parties were also directed to provide the relevant records and information for the purpose of reconciliation of their accounts to CA viz., Mr. S. Mohan.

On 23.05.2018, CA viz., Mr. S. Mohan has submitted the reconciliation report giving his findings that as per record, the total principal amount payable by the Corporate Debtor is Rs.7,89,531/- excluding the interest in relation to both the matter; one of them is pending before this Bench which involves Rs.7,71,840/- including interest.

Now, the Counsel for the Corporate Debtor has taken U-turn and has filed counter/objections to the report filed by CA viz., Mr. S. Mohan wherein he claims that the outstanding debt is Rs.4,38,253/- which is contrary to the report that has been filed by CA viz., Mr. S. Mohan,.

The Corporate Debtor from the date of its appearance before this Bench has taken a different stands with regard to the payment of the outstanding debt and final attempt has been made to drill the process of adjudication. The intention of the Corporate Debtor appears to be *mala fide* and different stands are taken to drag on the proceedings without any genuine cause. Therefore, the plea of the Corporate Debtor stands rejected.

The Counsel for the Corporate Debtor has been given a chance for payment of the outstanding debt but time and again he has raised many pleas which are not *bona fide* in nature, and hence, all the pleas stand rejected.

5. The Operational Creditor issued a Demand Notice dated 25.09.2017 under Section 8(1) of the I&B Code, 2016 to the Corporate Debtor, which is placed at pages 12 to 15 of the typed set filed with the Application, which provides the details of the outstanding debt and the details of Invoices, to which the Corporate Debtor has not sent any reply.

6. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016, by filing Affidavit, which is placed at pages 90 to 92 of the typed set filed with the Application, wherein under para 9, it has been deposed that no notice of any dispute has

been given by the Corporate Debtor for the unpaid operational debt. The Bank certificates issued and attested by the authorised signatories of Kotak Mahindra Bank Limited and Axis Bank Limited along with statement of accounts have been filed, which are placed at pages 94 to 96 of the typed set filed with the Application.

7. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Authority is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, CP/157/(IB)/CB/2018 is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

8. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the

purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, 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 (54 of 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.

9. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

10. The Operational Creditor has not proposed the name of IRP, therefore, Mr. Swaminathan Venkataraman is appointed as IRP, whose name appears in the Panel of Insolvency Professionals recommended by the IBBI. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the I&B Code, 2016.

12. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.

13. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. The e-mail and other details of the IRP are as follows: -

Mr. Swaminathan Venkataraman
Reg. No: IBBI/IPA-001/IP-P00444/2017-18/10787
Email: vs@pssca.in
Mobile No: 9380246125

14. Order is dictated and pronounced in open court in the presence of the representative for the Operational Creditor and Counsel for the Corporate Debtor.

[CH.MOHD SHARIEF TARIQ]
MEMBER (Judicial)

P. ATHISTAMANI