

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I**

CP (IB) 827/MB/C-I/2019

Under Section 9 of the Insolvency and Bankruptcy
Code, 2016

In the matter of

Newage Fire Fighting Company Limited

[CIN: U51909GJ1986PLC008773]

“NKB” House, P.O. Box No.14, Mehta Market,
Surrendranagar, Gujrat-363001.

... Operational Creditor/Applicant

Versus

GMP Technical Solutions Private Limited

[CIN: U74999MH2003PTC142312]

3rd Floor, Swastik Disa Business Park, LBS Marg,
Behind Wadhani Industrial Estate, Ghatkopar West,
Mumbai – 400086.

...Corporate Debtor/Respondent

Order Delivered on 01.07.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Anuj Jhaveri, Advocate.

For the Corporate Debtor : Mr.Ramesh Jain, Advocate.

ORDER

Per: Justice P. N. Deshmukh, Member (Judicial)

1. This Company Petition is filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **Newage Fire Fighting Company Limited ("the Operational Creditor hereafter referred to as Petitioner")**, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **GMP Technical Solutions Private Limited ("the Corporate Debtor hereafter referred to as Respondent")**.
2. The Respondent was incorporated on 22.09.2003 under the Companies Act, 1956. Its Corporate Identity Number (CIN) is U74999MH2003PTC142312. Its registered office is at 3rd Floor, Swastik Disa Business Park, LBS Marg, Behind Wadhani Industrial Estate, Ghatkopar West, Mumbai – 400086. Therefore, this Bench has jurisdiction to entertain and decide the Petition.

Brief Facts of the case:

3. The Respondent Company had approached the Petitioner herein for the purpose of procuring supply of different fire-fighting equipments and accessories at the site of Respondent Company. During November 2016 and December 2016 the Respondent carried out transactions with Petitioner.
4. The Respondent issued purchase orders to the Petitioner pursuant to which the Petitioner herein from time to time upon supplying the equipment's raised invoices amounting to Rs.14,99,346/- (Rupees

Fourteen Lakh Ninety-Nine Thousand Three Hundred and Forty-Six Only) for the period of November 2016 to December 2017.

5. Petitioner submits that the total amount of outstanding debt is Rs.24,99,517/- (Rupees Twenty Four Lakh Ninety Nine Thousand Five Hundred and Seventeen Only) which includes principal amount to the tune of Rs.14,99,346/- (Rupees Fourteen Lakh Ninety Nine Thousand Three Hundred and Forty Six Only) and interest thereon of Rs.5,73,801/- (Rupees Five Lakh Seventy Three Thousand Eight Hundred and One Only). In addition to this Rs.4,26,370/- (Rupees Four Lakh Twenty Six Thousand Three Hundred and Seventy Only) is outstanding on account of non-issuance of Form-C as per Central Sales Tax Act,1956. (Part-IV of the Petition at page 7).
6. The Respondent never raised any dispute or demur with respect to the quality of the goods supplied by the Petitioner nor raised any grievance in that regard to the Petitioner. According to the terms of the purchase orders Petitioner was required to dispatch the products along with the test certificates, said certificates clearly indicate the quality of the material supplied as per requirements of Respondent. (Exhibit F at page 158-170)
7. Petitioner on realising that Respondent was unable/incapable of paying to the Petitioner, through its advocate served upon the Respondent Demand Notice dated 13.08.2018 in Form 3 under section 8 form the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 which was duly received by

speed post by the Respondent. Respondent has failed to reply to demand notice.

8. As per Demand Notice dated 13.08.2018 the Petitioner claimed an amount of Rs.33,15,549/- (Rupees Thirty-Three Lakh Fifteen Thousand Five Hundred and Forty-Nine Only) further Petitioner submits that for the products supplied, an amount of Rs.10,00,000/- (Rupees Ten Lakh Only) is received by the Petitioner.
9. Petitioner in support of its claim has placed on record the following documents:-
 - i. Purchase Orders and Invoices
 - ii. Bank Statements
 - iii. Test Certificates and Warranty Certificates issued by the Petitioner.
 - iv. Working Computation of claim

Findings

10. We have heard the submissions of Petitioner and perused the records. No reply has been filed by the Respondent. The Respondent on two occasions i.e. on 11.12.2019 and 24.01.2020 appeared and submitted that the parties are exploring settlement. Thereafter, on 17.06.2022 when the matter was called out the Respondent sought time under the guise of settlement out of court.
11. It is observed that these are nothing but delay tactics employed by the Respondent in order to prolong time bound proceedings under the Code.

In view of the above circumstances, the Respondent is set ex-parte and the matter is taken on merits.

12. In the backdrop of above facts and circumstances, we are of the view that the Respondent has defaulted in the payment of the outstanding debt. Further, as envisaged under section 9(3)(b) of the Code, an affidavit has also been filed by the Petitioner. Also, as per the available record, it is apparent that the Respondent had never raised any dispute with respect to the services of the Petitioner.
13. This application was filed on 27 February, 2019 and as submitted by Petitioner the date of default is March, 2017. Hence, the application falls within the limitation period of three years.
14. The application made by the Petitioner is complete in all respects as required by law. It clearly shows that the Respondent is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
15. The Petition bearing CP (IB) 827/MB/C-I/2019 filed by **Newage Fire Fighting Company Limited**, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **GMP**

Technologies Solutions Private Limited
[CIN:U74999MH2003PTC142312], the Corporate Debtor, is admitted.

16. There shall be a moratorium under section 14 of the IBC, in regard to the following:

- i. 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;
- ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- iii. 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 (SARFAESI) Act, 2002;
- iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

17. Notwithstanding the above, during the period of moratorium: -

- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
- ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

18. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
19. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
20. Mr. Prabhakar Bhatt, Registration No. IBBI/IPA-001/IP-P000299/2017-2018/10543, Email Id: sukkhe@gmail.com, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
21. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
22. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakh only) with the IRP to meet the expenses arising out of

issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

23. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
24. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Pune, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within **seven days** from the date of receipt of a copy of this order.
25. Ordered accordingly.

Sd/-

SHYAM BABU GAUTAM

Member (Technical)

01.07.2022

Priyal

Sd/-

JUSTICE P. N. DESHMUKH

Member (Judicial)