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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL
HON'BLE SHRI NARENDER KUMAR BHOLA- MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.09.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.499/9/HDB/2019
NAME OF THE COMPANY	Aikya Infrastructure Pvt Ltd
NAME OF THE PETITIONER(S)	Potluri Raghavendra Rao
NAME OF THE RESPONDENT(S)	Aikya Infrastructure Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
M Ramana Reddy	PCS	9059779008	
P S Rao & Associates			

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature


ORDER

Orders passed vide separate orders.

Petition is admitted.


Member (T)

Pavani


Member (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 499/9/HDB/2019
U/s 9 of IBC, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of M/s. Aikya Infrastructure Private Limited

Potluri Raghavendra Rao

Sole Proprietor

G1, Lakshmi Durga Enclave
Plot No: 30 to 33, Chiranjeevi Nagar
Near Widia Colony, Miyapur
Hyderabad -500049
Telangana, India

**... Applicant /
Operational Creditor**

Versus

M/s. Aikya Infrastructure Private Limited

CIN: U70102TG2008PTC061917
H. No: 8-3-677/19, Plot.No:19, 1st Floor
Sri Krishna Devarayanagar, Yellareddyguda
Hyderabad - 500073
Telangana, India

**... Respondent /
Corporate Debtor**

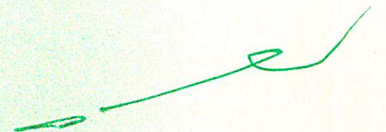
Date of order: 26.09.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narender Kumar Bhola, Member(Technical)





Parties / counsels present:

For the Petitioner : Mr.M.Ramana Reddy, Counsel.

Per: Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Heard on: 23.09.2019.

ORDER

1. The present Petition is filed by Shri Potluri Raghavendra Rao, sole Proprietor of G1, Lakshmi Durga Enclave i.e operational creditor to initiate a corporate insolvency Resolution Process against M/s. Aikya Infrastructure Private Limited i.e Corporate Debtor stating that corporate debtor had defaulted in paying Rs. 28,27,780/- (Rupees Twenty-Eight Lakhs Twenty-Seven Thousand Seven Hundred and Eighty only). Hence this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.
2. The brief averments stated in the Petition are that:
 - a. The applicant Mr. Potluri Raghavendra Rao is a Supplier for Sand/ Aggregates for RMC etc. Corporate debtor placed several orders on Mr. Potluri Raghavendra Rao since 31.01.2016 and Mr. Potluri Raghavendra Rao has been selling, supplying and dispatching the Sand/

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Aggregates for RMC etc., to the corporate debtor for which applicant has been issuing despatch details of the supplies along with copy of Invoices.

- b. Applicant avers that Corporate debtor have been receiving the goods despatched and never raised any complaints about any defects or shortcomings of the said supplies which has been received by him.
- c. Applicant avers that corporate debtor failed to make the payment for the invoices raised with regard to the supplies.
- d. Applicant avers that Invoices has been raised from 31.01.2016 to 30.04.2016. During this period the corporate debtor has made payments of Rs. 12,00,000 on 11.2.2019 and on 29.03.2019 of Rs. 10,00,000/-.

The details of which are as follows:

- Invoice No. 001, dated 31.01.2016, for an amount of Rs. 15,36,442/- (Rupees Fifteen Lakhs Thirty-Six Thousand Four Hundred and Forty-Two Rupees Only.).
 - Invoice No. 002, dated 28.02.2016, for an amount of Rs. 12,27,098/- (Rupees Twelve Lakhs Twenty-Seven Thousand and Ninety-Eight Rupees Only).
 - Invoice No. 003, dated 31.03.2016, for an amount of Rs. 14,08,166/- (Rupees Fourteen Lakhs Eight Thousand One Hundred and Sixty-Six Rupees Only).
 - Invoice No. 004, dated 30.04.2016, for an amount of Rs. 8,56,074/- (Rupees Eight Lakhs Fifty-Six Thousand and Seventy-Four Only).
- e. The applicant avers that basing on the invoices and materials supplied it is clear that the corporate debtor is liable to pay the amount and thus the petition is liable to be admitted.

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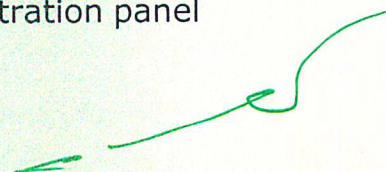
- f. Applicant has sent demand notice in Form 3 dated 13.06.2019 to the corporate debtor with regard to the unpaid operational debt to the tune of Rs.28,27,780/-. However, the corporate debtor has failed to make any such payment. Copy of demand notice along with postal receipt are annexed at page no.21-27.
- g. The applicant filed Form-5. It is clear from the record that Operational Creditor sent Demand Notice in Form-3 to the corporate debtor to its address. Operational Creditor filed copies of invoices issued by operational creditor to corporate debtor which is annexed to the petition at page no.13-16. The Operational Creditor also filed ledger account statement evidencing the balance due by corporate debtor since 01.04.2015 to 31.03.2019 which is annexed to the petition at page no.17-20 . Thus, Operational Creditor filed documentary proof in support of the claim and also placed evidence that Corporate Debtor committed default. The operational creditor has also filed proof of delivery of its demand notice to the corporate debtor which is annexed to the petition at page no.25-17. Corporate debtor has not appeared during any of the hearing of this Tribunal nor any written submissions filed. Therefore, petition is liable to be admitted.
3. We have heard the counsel for operational creditor. This Petition is filed by operational creditor under section 9 of I&B Code. Operational creditor filed Form-5 and furnished the information with regard to the operational debt which is committed default by corporate debtor.
4. The notice was served on the corporate debtor. Postal track record is filed through Memo. Learned counsel contended that corporate debtor has not replied and failed to defend. The

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claim is submitted within period of time prescribed under Limitation Act, 1963. Thus, the claim is within limitation. There is no representation or reply by the Corporate Debtor. Corporate debtor was served with notice before admission however, corporate debtor remained absent and it did not contest the claim.

5. In view of the above we are of the considered view that the operational creditor has been able to establish un disputed debt against corporate debtor and the corporate debtor has been in default with regard to the payment of dues to the operational creditor amounting to Rs.28,27,780/-. The Operational creditor is able to establish through documents that corporate debtor committed default of operational debt and there is no pre-existing dispute. Thus, this Petition is complete and is liable to be admitted.
6. The Operational Creditor proposes the name of Mr. Krishna Komaravolu, as Interim Resolution Professional. The proposed IRP has given written consent in Form-2. He has also certified there are no disciplinary proceedings pending against him either with the Board or ICSI. He has also attached the Certificate of Registration. Accordingly, this Tribunal appoints Mr. Krishna Komaravolu, having registration number IBBI/ IPA-002/ IP-N00562/ 2017-2018/11699, Mob No. 9010226641 e-mail id: kkvolu@gmail.com as Interim Resolution Professional.
7. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-
 - (1) The 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

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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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

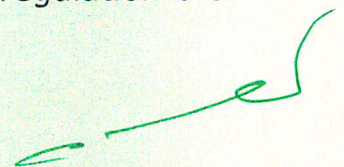
(2) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(3) 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.

(4) The Interim Resolution Professional shall perform all his functions religiously and strictly which are contemplated, inter alia, by Sections 15, 17,18,19,20, 21 and other provisions of the Code. He must follow best practices and principles of fairness which are to apply at various stages of CIRP. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor are under legal obligation under Section 19 of the code to extend every assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the Corporate Debtor.

(5) The Petitioner is directed to pay a sum of Rupees 2,00,000/- (Two Lakhs Only) to the interim resolution professional to meet out the expenses to perform the functions assigned to him in accordance with regulation 6 of

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IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This shall, however, be subject to adjustment by the committee of creditors as accounted for by interim resolution professional and shall be paid back to the petitioner.

(6) That the order of moratorium shall have effect from 26.09.2019 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, whichever is earlier.

(7) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.

Accordingly, this Petition is admitted.


26.9.2019
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


26.9.19
RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani