

NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH

(IB)-2015(ND) 2019

In the matter of

PRADEEP KUMAR GOEL

Sole Proprietor of SKG PNEUMATICS INC

904, Padma Towers-1,

5 Rajendra Place

New Delhi 110008

.....Operational Creditor

V/s

APRAJITA ENGICON PVT LTD.

Ground Floor, Aurobindo Apartments,

Near "NCERT", Adhchini

New Delhi-110017

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 09.12.2019

CORAM:

JUSTICE (RETD) RAKESH DAYAL KHARE, MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

PRESENT- Adv Anish Gupta & Adarsh Tripathi for the Petitioner  
None present for the Respondents



**ORDER**

**Per Ms. Sumita Purkayastha (Member Technical)**

1. The present petition has been filed invoking the provision of Section 9 of the Insolvency & Bankruptcy Code, 2016.
2. The Operational Creditor is engaged in the business of supplying and marketing of various kinds of valves and fire fighting items. The Operational Creditor is an authorized Stockiest and Marketing Agents of the above mentioned products.
3. As per the averment made in the application, the Operational Creditor states that the Director of the Corporate Debtor Company telephonically placed order of different types of goods for its project at Paras Dew's Dwarka Express Way, near Village Daulatabad. And assured that the payment shall be made within thirty (30) days from the date of the delivery of the goods. The Operational Creditor on 13.04.2018 delivered the said goods at the aforesaid site address . An Invoice bearing number 0064 for an amount of Rs. 4,45,982/- dated 13.04.2018 was raised against the goods so delivered. After thirty days from the delivery of goods. The Corporate Debtor issued a cheque of Andhra Bank bearing no. 781493 for an amount of Rs. 4,45,982/- towards the payment of the dues. The cheque was presented for encashment oh 14.09.2018 which got returned on 15.09.2018 due to insufficiency of funds" in the account of the Corporate Debtor. The Corporate Debtor then requested the



Operational Creditor to return the dishonored cheque and assured clearance of the outstanding dues and again issued two cheques dated 21.12.2018 bearing number 784690 and 784691 for Rs. 2,45,982/- and Rs. 2,00,000/-. However, the Corporate Debtor later requested the Operational Creditor not to encash the same and assured to transfer the outstanding amount in the bank account of the Operational Creditor through online mode. No payment has been made by the Corporate Debtor.

4. The Operational Creditor served Demand notice dated 06.07.2019 by registered speed post Whatsapp to the Corporate Debtor U/Sec.8 of the Insolvency & Bankruptcy Code, 2016 seeking refund of payments within 10 days from the date of receipt of the notice. That neither a reply to the Demand Notice nor any payment has been received by the Petitioner.
5. The Petitioner has therefore filed this petition as an Operational Creditor praying for initiation of Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate their claim of Rs. 4,45,982/- plus interest charged at 21% from the relevant due date till the date of payment.
6. The present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Affidavit in compliance under Section 9(3)(b) and 9(3)(c) of Code are on record to corroborate his case.

7. As per the averments of the Operational Creditor, the Corporate Debtors did not make the payment against the default. None appeared on behalf of the Corporate Debtor to oppose the prayer made by the petitioner, hence were proceeded ex-parte vide order dated 18.09.2019. The present petition being filed in August, 2019 is within the limitation, being within three years from the date of the cause of action. Considering the circumstances this Tribunal is inclined to admit this petition and initiate CIRP of the Respondent. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith staying:-

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (b) transferring, encumbering, alienating or disposing of by the corporate debt or 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.*

Further:





*(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

*(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."*

8. The Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint Mr. Mukesh Kumar Gupta, an Insolvency Professional, registration no. IBBI/IPA-001/IP-P00207/2017-18/10407 email- [guptam11@gmail.com](mailto:guptam11@gmail.com) duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file his report before the Adjudicating Authority.

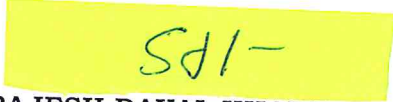
9. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully



accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.

10. Petition is therefore admitted.

  
**SUMITA PURKAYASTHA**  
Member (T)

  
**JUSTICE RAJESH DAYAL KHARE**  
Member (J)

Pronounced today under Rule 151 of the NCLT Rules 2016 as  
Hon'ble Member(J), Justice (Retd.) Rajesh Dayal Khare is not  
holding court today.

Sd/-

**(PRABHAT KUMAR SHARMA)**

**COURT OFFICER**