

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. (IB) No. 1504/KB/2018

In the matter of:

An application U/S. 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

And

In the matter of:

M/S Industrial Supply Syndicate, represented by its proprietor, Madan Gopal Choudhary, having its Registered office at 54, Ezra Street, Ground Floor, Kolkata-700001;

... Operational Creditor

-Versus-

M/S Classic and Continental Services Private Limited, having its registered office at Abinandan Apartment, BD 37/2, Rabindrapally, Prafulla Kanan, Kolkata-700101;

... Corporate Debtor

Coram: Shri Madan B. Gosavi, Hon'ble Member [Judicial]

Shri Virendra Kumar Gupta, Hon'ble Member [Technical]

Counsel appeared:

1. Mr. Abhishek Sikdar]for the Operational Creditor

Order pronounced on 23/08/2019

ORDER

Per Shri Madan B. Gosavi, Member (J)

1. **Industrial Supply Syndicate**- the Operational Creditor has filed this application under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "I & B Code"] against **Classic and Continental Services Private Limited**- the Corporate Debtor to initiate Corporate Insolvency Resolution Process [hereinafter referred to as "CIRP"] against the Corporate Debtor claiming that an amount of **Rs.3,09,475/- [Rupees Three Lakh Nine Thousand Four Hundred and Seventy Five only]** including interest of 18% p.a. is an unpaid operational debt due from the Corporate Debtor. That despite demand, the Corporate Debtor did not pay the outstanding amount and hence defaulted in payment of the operational debt and therefore, the Operational Creditor has filed this application.
2. The Operational Creditor states that the Operational Creditor had supplied electrical goods in terms of verbal purchase orders placed by the Corporate Debtor. The Operational Creditor raised two Tax

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Invoices, copies of the Tax Invoices are annexed with the petition and collectively marked as **Annexure "C"**. The Corporate debtor made Ad Hoc payments and thereafter, failed to make any payments after 28.06.2018. Since, the Corporate Debtor committed default in paying the operational debt, this proceeding is filed under Section 9 of the I & B Code, 2016.

3. The Corporate Debtor was served with the notice of this proceeding which was delivered. Despite delivery, the Corporate Debtor did not appear and, hence an order for ex parte hearing against the Corporate Debtor was passed.
4. Heard the Ld. Counsel for the Operational Creditor and perused the records.
5. The Operational Creditor produced on record all relevant evidence to establish the fact that there is an operational debt due and payable by the Corporate Debtor to the Operational Creditor and that the Corporate Debtor committed default in paying such debts.
6. The Operational Creditor issued a demand notice U/S 8 of the I & B Code, dated 19.03.2018 upon the Corporate Debtor calling for payment of the debt which was delivered to the Corporate Debtor. The Corporate Debtor replied to the notice sent on 26.03.2018 stating that the Corporate Debtor is facing a financial crunch due to business recession and are unable to clear out the payments.
7. The Operational Creditor has also filed an affidavit under Section 9 [3](b) of the I & B Code stating that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt.
8. The Operational Creditor has not proposed the name of the Interim Resolution Professional. In view of the above-said discussion, the

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application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is admitted upon the following orders:-

ORDER

- a. The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, Classic And Continental Services Private Limited, is hereby ***admitted***.
- b. We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.
- c. Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- d. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits 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;

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- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- e. The services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- f. 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.
- g. The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- h. 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 the corporate

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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.

- i. Necessary public announcement as per Section 15 of the I & B Code, 2016 may be made.
- j. **Shri Pankaj Kumar Tibrewal**, an Insolvency Professional registered with the Indian Institute of Insolvency Professionals of ICAI having **Registration No. IBBI/IPA-001/IP-P01577/2018-2019/12410**, email i.d.: **tibrewalpankaj@yahoo.com** is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- k. The Operational Creditor/Applicant to pay Rs. 30,000/- [Rupees Thirty Thousand only] to the I.R.P. as payment of his fees as advance, as per Regulation 33 [3] of the IBBI [Insolvency Resolution Process for Corporate Persons] Regulations, 2016, the same shall be adjusted towards total fees.
- l. The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- m. Registry is hereby directed under section 9(5) of the I & B Code, 2016 to communicate the order to the Operational Creditor, the

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Corporate Debtor and to the I.R.P. by Speed Post as well as through email.

9. List the matter on 18.10.2019 for the filing of the progress report.
10. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

 23/8/2019

[Virendra Kumar Gupta]

Member [T]

 23/8/2019

[Madan B. Gosavi]

Member [J]

Signed on this, the 23rd day of August, 2019.