

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

**C.P. No. 4601/IBC/MB/2018**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

*In the matter of*

**Salvi Comptech Private Limited**

Having office at: BI-24, Dip Mandir, New Link Road, Borivali (W), Mumbai – 400091.

**.....Operational Creditor**

**V/s**

**Avanti System Integrators Private Limited**  
(CIN: U31907MH2004PTC48414) Having Office at : a-302, Brentfordhramani Estate, Godhbandher Road, Patlipada, Thane, Maharashtra 400607

**.....Corporate Debtor**

**Order delivered on:- 12.05.2022**

***Coram:***

<b>Hon'ble Member (Judicial)</b>	<b>:</b>	<b>Justice P.N. Deshmukh (Retd.)</b>
<b>Hon'ble Member (Technical)</b>	<b>:</b>	<b>Mr. Shyam Babu Gautam</b>

***Appearances:***

For the Operational Creditor	<b>:</b>	Ms. Nishita Nambiar
For the Corporate Debtor	<b>:</b>	None Present

**ORDER**

*Per :- Shyam Babu Gautam, Member Technical*

1. This Company Petition is filed by *Salvi Comptech Private Limited* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Avanti System Integrators Private Limited* (hereinafter called “Corporate Debtor”) alleging that the Corporate debtor committed default in making payment to the Operational Creditor. This petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs. 12,85,64,268/-.
3. **The Submissions of the Operational Creditor are as follows:**
  - a. The Operational Creditor states that the Corporate Debtor is liable to pay an amount of Rs. 12,85,64,268/- which is due for the supply of Digital Video Recorder.
  - b. The Operational Creditor further states that a Demand Notice dated 15.09.2018 under section 8 of the Code thereby demanding payment in respect of unpaid Operational Debt due from the Corporate Debtor. The Operational Creditor has annexed the courier receipt of the tracking report showing that the Notice was delivered to the Corporate Debtor. The Corporate Debtor did not

file any Reply to the Demand Notice and no dispute was raised by the Corporate Debtor under section 5(6) of the Code.

- c. The Operational Creditor further states that vide Demand Letters dated 10.10.2017, 08.01.2018 the Operational Creditor reminded, requested the Corporate Debtor to make the outstanding payment. The Operational Creditor sent various invoices to the Corporate Debtor. The details of invoices and their due dates are as under :-

Invoice Details	Invoice Date	Amount
SCPL/15-16/SB/45	08.03.2016	1,66,77,563
SCPL/15-16/SB/49	12.03.2016	2,33,48,588
SCPL/15-16/SB/50	12.03.2016	1,66,77,563
SCPL/15-16/SB/58	18.03.2016	2,22,36,750
SCPL/15-16/SB/60	18.03.2016	2,22,36,750
SCPL/16-17/SB/27	10.06.2016	2,73,87,054
	Total Amount	<b>12,85,64,268</b>

- d. The Operational Creditor further submits that inspite of repeated requests, reminders (verbal as well as written) for the payment of the outstanding amount, the Corporate Debtor willfully and/or deliberately failed and neglected to make payment of the said outstanding dues.
- e. The Operational Creditor has also annexed copy of Bank Statement for the year 07.04.2016 till 10.10.2018. The Operational Creditor has also annexed Certificate under Section

9 (3) (c) of the Insolvency and Bankruptcy Code dated 10.10.2018 by Union Bank of India confirming that there is no payment of unpaid Operational Debt from the Corporate Debtor.

- f. The Operational Creditor has also submitted the ledger account of the Corporate Debtor in the books of the Operational Creditor for the year ended 01.04.2005 to 30.09.2018 which corroborates the amount claimed.

**4. No Submissions of the Corporate Debtor :-**

- a. The Corporate Debtor has never appeared before this Bench despite of number of opportunities being given. Notices for intimation of dates of hearing have also been sent and Affidavit of Service has been produced on record by the Operational Creditor. The same has been perused. No reply has been received on record till date. Also, the Corporate Debtor has nowhere denied his liability to pay the amount claimed.

**FINDINGS**

5. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that this Tribunal had given sufficient chances to the Corporate Debtor to file its Reply and appear before this Tribunal. However, the Corporate Debtor failed to appear and also did not file its Reply. This act itself shows that the amount is due and payable to the Operational Creditor. It is observed that the Operational Creditor has served and intimated the date of hearings to the Corporate Debtor on several occasions.

6. Further, the correspondences exchanged between the parties reveal that the Corporate Debtor informed the Operational Creditor about its adverse financial conditions and inability to make any payment. The Corporate Debtor had asked for some time to clear the outstanding dues. Further the Corporate Debtor Company is in financial crunches hence there is nothing much to say in defense. Petition.
7. The Operational Creditor has annexed Bank Statement for the period 07.04.2016 till 10.10.2018 to corroborate his claim.
8. The Operational Creditor has also produced on record a copy of Certificate from Union Bank of India, wherein the Operational Creditor was maintaining accounts as to no payment of unpaid Operational Debt of Rs. 12,85,64,268/- was received from the Corporate Debtor.
9. Further, on the basis of the evidences on record the Operational Creditor has established that he has delivered services to the Corporate Debtor Company for which an amount of Rs. 12,85,64,268/- is due and a default has also occurred. Considering these facts and circumstances, the nature of the Debt is an 'Operational Debt' as defined under section 5 (21) of the Definitions under The Code. There is a "Default" as defined under section 3 (12) of The Code on the part of the Debtor.
10. Further, we have also perused the notice sent under Section 8 (2) of the Code and it came to our notice that the Corporate Debtor has received the same but has not paid the amount of unpaid due. Further, if the Debtor wanted to place on record evidence of

'Dispute' then he could have raised the objection within 10 days as prescribed under section 8 (2) of The Code which had also lapsed now. Hence, admittedly there is no 'Dispute' in respect of the outstanding Debt.

11. As a consequence, after the expiry of the period as prescribed and keeping admitted facts in mind that, the Operational Creditor had not received the outstanding Debt from the Debtor and that the formalities as prescribed under The Code have been completed by the Petitioner/Applicant. It is my conscientious view that this Petition deserves '**Admission**' specially wherein the Debtor is accepting its default.
12. The Operational Creditor has successfully demonstrated and proved the debt and default in this case and has also proved that there is absolutely no reason for the Corporate Debtor to hold on to the payment of the invoices. The Operational Creditor has also suggested the name of proposed Interim Resolution Professional along with his consent letter in Form-2. Hence this Bench is left with no option except to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 9 of the Code.
13. For the foregoing reasons, the above Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

**ORDER**

14. **The above Company Petition No. (IB) -4601 (MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Avanti System Integrators Private Limited.
15. This Bench hereby appoints Mr. Vinodkumar Pukhraj Ambavat, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00420/2017-18/10743 as the Interim Resolution Professional having address at 40/9/15, Morarji Velji Building, 1<sup>st</sup> Floor, Dr. MB Velkar Street, Kalbadevi Road, Mumbai - 400002 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
16. The Operational Creditor shall deposit an amount of Rs. Two Lakhs towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
17. That this 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 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 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

18. 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.
19. 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.
20. That the order of moratorium shall have effect from the date of pronouncement of this order 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, as the case may be.
21. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
22. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

23. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor. Accordingly, this Petition is admitted. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

**Sd/-**

**SHYAM BABU GAUTAM  
(MEMBER TECHNICAL)**

**Sd/-**

**JUSTICE P.N. DESHMUKH  
(MEMBER JUDICIAL)**