

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP 3271 (IB)/MB/2018

Under Section 9 of the I&B Code, 2016

In the matter of

Zee Entertainment Enterprises Limited

...Operational Creditor/ Applicant

v/s

Jupiter Broadcast Private Limited

...Corporate Debtor/Respondent

Order Dated 9th September 2019

Coram: Hon'ble Member (Judicial): Mr V.P. Singh

Hon'ble Member (Technical): Mr Rajesh Sharma

For the Applicant: PCS. Naresh S. Trivedi

For the Respondent: None present

Per V.P Singh, Member (Judicial)

ORDER

1. This is an application being CP 3271/2018 filed by **Entertainment Enterprises Limited**, Operational Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Jupiter Broadcast Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming a default of ₹29,12,500/- (Rupees Twenty Nine Lakh Twelve Thousand Five Hundred Only) for the services provided by the Operational Creditor to the Corporate Debtor.
2. Mr Amit Sethi files this application, Constituted Attorney of the Operational Creditor, authorized by Power of Attorney dated 18.09.2017. The Applicant was authorised to initiate the present proceedings based on the Board Resolution dated 28.03.2019, that duly authorises Mr Sanjay Mishra to file the present application. Copy of the Board Resolution dated 28.03.2019 is annexed to the Application.

3. The Operational Creditor provided services to the Corporate Debtor under the License Agreement dated 17.02.2017. The Operational Creditor has raised invoice dated 15.06.2017 for a sum of ₹15,12,500/- (Rupees Fifteen Lakh Twelve Thousand Five Hundred Only) and invoice dated 31.10.2017 for a sum of ₹14,00,000/- (Rupees Fourteen Lakh Only) totaling ₹29,12,500/- (Rupees Twentynine Lakh Twelve Thousand Five Hundred only). Copies of the License Agreement dated 17.02.2017 and the two invoices dated 15.07.2017 and 31.10.2017 are annexed to the Application.
4. The Corporate Debtor has acknowledged its liability to make payments under the License Agreement to Operational Creditor and has stated in its emails that due to incurring losses, the Corporate Debtor has not been able to make timely payment. Copies of the email dated 29.09.2017, 05.10.2017 and 17.10.2017 sent by the Corporate Debtor to the Operational Creditor acknowledging the Debt are annexed to the Application.
5. The Operational Creditor has annexed its Statement of Bank Account for the period from 01.06.2017 till 31.03.2018 showing that the Operational Creditor has not received any amounts in the said period.
6. The Applicant had issued Demand Notice dated 18.11.2017 and the same has been duly served on the Corporate Debtor, Copy of the Demand Notice with proof of delivery is annexed to the Application.
7. The Applicant has filed an affidavit in compliance of section 9(3)(b) dated 03.08.2018 of the I & B Code, 2016 stating that the Corporate Debtor has failed to raise any dispute by the provisions of the Code. Copy of the said affidavit is annexed to the Application.
8. The copies of the email conversation between the Applicant and the Corporate Debtor annexed to the Application establish the fact that despite repeated reminders sent to the Corporate Debtor for realising the outstanding amount. But despite admitting to repay the amounts demanded by the Operational Creditor, the Corporate Debtor failed to clear the outstanding amount, though sufficient opportunity was granted to the Corporate Debtor. The corporate debtor despite service of notice has not filed any reply.

9. We have heard the parties and perused the record.
10. On perusal of the License Agreement dated 17.02.2017 and the invoices dated 15.06.2017 and 31.10.2017 submitted by the Applicant, it is clear that debt amounting to ₹29,12,500/- (Rupees Twenty Nine Lakh Twelve Thousand Five Hundred Only) for the services provided by the Operational Creditor to the Corporate Debtor is due and payable.
11. The Corporate Debtor has acknowledged its liability vide emails dated 29.09.2017, 05.10.2017 and 17.10.2017. The Corporate Debtor, despite service of demand notice U/S 8 of IBC, has failed to pay or raise a dispute with respect the services provided by the operational creditor. The application has been filed well within limitation. The application is complete and deserves to be admitted.
12. The Applicant has proposed the name of **Mr Partha Sarathy Sarkar**, a registered insolvency resolution professional bearing Registration No. **[IBBI/IPA-002/IP-N00239/2017-18/10690]** to act as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code along with declaration of the proposed IRP, in Form 2, that no disciplinary proceeding is either pending or initiated against him.
13. The Application under section Section 9 of I&B Code, 2016 filed by the Operational creditor for initiation of CIRP in prescribed Form No.5, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and is complete. The existing operational debt of more than rupees one lakh against the corporate debt and its default is also proved. Accordingly, the petition filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 9 of I&B Code, 2016, filed by **Zee Entertainment Enterprises Limited**, against **Jupiter Broadcast Private Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare

moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - a) 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;
 - b) transferring, encumbering, alienating or disposing of by the corporate debtor 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 activity under the Securitization 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 possession of the corporate debtor.
- II. That 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.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement under section 13 of the I&B Code regarding initiation of corporate insolvency resolution process should be made immediately.

VI. That this Bench at this moment appoints **Mr Partha Sarathy Sarkar**, a registered insolvency professional having Registration Number **[IBBI/IPA-002/IP-N00239/2017-18/10690]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

14. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor, and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted immediately.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

9th September 2019