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

C.P. (IB)-4105(MB)/ 2019

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

M/s. C. H. Robinson Worldwide Freight India Private Limited,
(CIN No.: U60231TN2006PTC061597)
Having its Registered Office at: 77, Nungambakkam High Road, Pottipatti Plaza, Nungambakkam, Chennai- 600 034
……Operational Creditor

Vs

Bafna Health Care Private Limited,
(CIN No.: U85190MH2007PTC173326)
Having its Registered Office at: Unit No. 712, 7th Floor, World Trade Centre No. 1, Cuffe Parade, Colaba, Mumbai – 400 005
…….Corporate Debtor

Order delivered on:- 03.06.2022

Coram:

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

Appearances:

For the Operational Creditor : Ms. Cristina Carlos, Advocate

For the Corporate Debtor : None

ORDER

Per :- Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *M/s. C. H. Robinson Worldwide Freight India Private Limited* (hereinafter called "Operational Creditor") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Bafna Healthcare Pvt. Ltd.* (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 **Rs. 14,47,476/-** (Rupees Fourteen Lakhs Forty- Seven Thousand Four Hundred and Seventy- Six) together with interest **@18% per annum** from the date due until realization.

3. The Operational Creditor is engaged in the business of providing services in the nature of Air and Ocean Forwarding, Inland Transportation, Warehousing and Distribution, Customs Clearance etc. The Operational Creditor regularly handled import shipments of the Corporate Debtor in the months of April and May 2018 in the course of their business. The Operational Creditor raised **9 Invoices** from **25th April 2018 to 31st May 2018** on account of various charges due on the

aforesaid shipments handled by them. A record of the amounts due for the services rendered to the Corporate Debtor was duly maintained by the Operational Creditor by way of a running ledger account, copies of which have been annexed to this Petition along with copies of the unpaid Invoices.

4. The Corporate Debtor has defaulted the payment of a total sum of Rs. 14,47,476/- since **30th June 2018** which was the due date of payment of the last invoice. The Corporate Debtor made part payment of **Rs. 1,00,000/-** towards the first invoice and thereafter confirmed their obligation to pay the remaining amounts vide email dated 29th October 2018 but has not made any further payment towards the outstanding invoices.

5. Consequently, the Operational Creditor sent a **Demand Notice dated 25th February 2019** under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate Debtor demanding repayment of the outstanding dues. The Corporate Debtor replied to the said Notice vide Letter dated 14th March 2019, admitted the amounts claimed and assured the Operational Creditor of their bonafide intentions of clearing the same. A series of communications ensued between the Operational Creditor and Corporate Debtor wherein the Corporate Debtor proposed to settle the matter by offering Post Dated Cheques to the Operational Creditor but all such settlement talks failed subsequently. Hence, this Petition.

FINDINGS

6. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that the Corporate Debtor failed to appear before this Tribunal on multiple occasions despite notice. We note that the settlement talks failed mainly due to the inordinate delay caused by the Corporate Debtor for making the payments citing frivolous reasons. Moreover, the Corporate Debtor has neither filed any Reply to this Petition nor appeared before this Tribunal. This clearly indicates the reluctance of the Corporate Debtor to fulfil their obligations.

7. The Operational Creditor has successfully demonstrated and proved the debt and default in this case. It is noted that no pre-existing dispute exists with regard to the services rendered by the Operational Creditor as the Corporate Debtor admits the said outstanding debt. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for admission under Section 9 of the Code and has decided to proceed ex- parte against the Corporate Debtor.

8. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:
   a. **The above Company Petition No. (IB) - 4105(MB)/2019 is hereby allowed** and initiation of

Corporate Insolvency Resolution Process (CIRP) is ordered against Bafna Health Care Private Limited.

b. This Bench hereby appoints Mr. **Shashant Sudhakar Yeola,** Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00310/2017-18/10574 as the Interim Resolution Professional having email address shashantsyeola@gmail.com to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Operational Creditor shall deposit an amount of Rs.2 Lakh 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.

d. 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.

e. 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.
f. 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.
g. 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.
h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. 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.
j. 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/-	**Sd/-**
SHYAM BABU GAUTAM	**JUSTICE P. N. DESHMUKH**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**