

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH, GUWAHATI

CP (IB) No.38/GB/2019

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

In the matter of:

M/s OM Logistics Ltd. ... Applicant/Operational Creditor

-Versus-

M/s Brajkon Organics Pvt. Ltd. ... Respondent/Corporate Debtor

Coram:

Hon'ble Mr Hari Venkata Subba Rao, Member (J)

No. 34
Date of filing of application 3/2/2020
Date of hearing 4/2/2020
Date of order Nil
Date of copy Nil
Date of presentation of copy Nil
Date of delivery of copy 3/2/2020

For the Applicant/Operational Creditor : Mr. M. Das, Advocate
For the Respondent/Corporate Debtor : None

ORDER

Date of Order: 30th January 2020.

Heard Mr M.K. Das, learned Advocate for the Applicant/Operational Creditor. The Respondent/CD remained ex parte.

2. This is an application filed by the Operational Creditor (in short, OC) under Section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, IBC) for initiating Corporate Insolvency Resolution Process (in short, CIRP) against the Corporate Debtor (in short, CD).

3. Brief facts of the application, as narrated by the OC, are that the OC, which is engaged in the business of transportation services, provided services to the CD in lieu of which various invoices were raised by the OC which were duly delivered to the CD. Pursuant to such services rendered by the OC to the CD, an amount of Rs.14,13,051 (Rupees fourteen lakhs thirteen thousand and fifty one only) i.e. principal



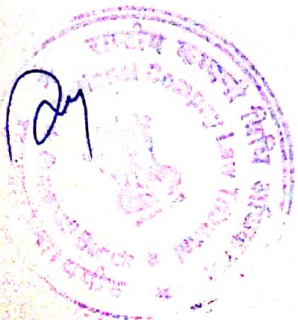
amount of Rs.10,84,357/- plus interest @ 24% of Rs.3,28,694/- is still pending and due from the CD.

4. The OC sent demand notice dated 27.05.2019 demanding the above amount of Rs.10,84,357/- (Rupees ten lacs eightyfour thousand three hundred and fifty seven only) to the CD and the CD having duly received the said demand notice neither sent any reply nor paid any amount to the OC. Hence the OC filed the present petition for initiating CIRP against the CD under Section 9 of the IBC.

5. Since the respondent/CD remained ex parte despite receipt of personal notice of the application, the claim of the OC remained unchallenged and has to be accepted and the above company petition has to be admitted. Accordingly, the petition filed by O M Logistics under Section 9 of IBC is admitted and the following order is passed:

ORDER

- (i) *The petition filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating Corporate Insolvency Resolution Process in respect of Brajkon Organics Pvt. Ltd.*
- (ii) *I hereby declare a Moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.*
- (iii) *The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP 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 the Insolvency & Bankruptcy Code, 2016 shall be made immediately.*
- (iv) *Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:*
 - a) *The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of*

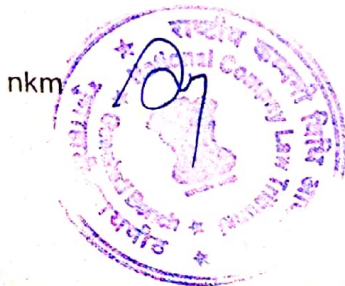


any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

- b) Transferring, encumbering, alienating or disposing of by the corporate 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 action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.*
- (v) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- vi) 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.*
- (vii) The order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution Process.*
- (viii) 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 Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.*
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.*
- (x) As the OC failed to mention the name of the Interim Resolution Professional (in short, IRP), Mr. Amit Pareek CS, with address at 4th*

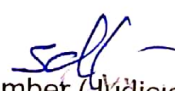
Floor, Ram Prasad Complex, Chatribari, Guwahati-781001 with Registration No. IBBI/IPA-002/IP-N00413/2017-18/11205 (Mobile No.9864031935) with e-mail ID- amitpareek99@yahoo.com is hereby appointed as IRP from the panel of IRPs certified by IBBI for a resolution.

- (xi) The OC shall deposit an amount of Rs.2,00,000.00 (Rupees Two lacs only) with the Registry towards initial charges for initiation of resolution process by the IRP within 2 (two) weeks from the date of this Order by way of DD drawn in the name of the IRP and the IRP shall acknowledge and account for the same. The DD shall be handed over to the IRP by the Registry after giving his consent of appointment.
- (xii) 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.
- (xiii) Registry is hereby directed under Section 7(7) (a) of the I.B. Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through e-mail.
- (xiv) The Interim Resolution professional is directed to strictly comply with the model timeline for CIRP as provided under Regulation 40A of IBBI (IRP for Corporate Person) Regulation, 2016.
6. List the matter on 05.03.2020 for the filing of the progress report.
7. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.



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391/NCLT/65
3/2/2020


Member (Judicial)
Adjudicating Authority