

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI**  
**BENCH-VI**

**IB-241/(ND)/2020**

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

**In the matter of:**

**M/s BM Pipes Private Limited**  
**Having Registered Office at:**  
**Plot No.3, Pradhan Market,**  
**Nilothi Extension, Delhi-110041**

...Operational Creditor/Petitioner

**Versus**

**TSL Electro Power Private Limited**  
**Having Registered Office at:**  
**E-104, Nagarjuna Apartment,**  
**Chilla Complex, Mayur Vihar Phase I**  
**Delhi-110092**

...Corporate Debtor/Respondent Company

**Coram:**

**MR. P.S.N. PRASAD**  
**Hon'ble Member (Judicial)**


**DR. V.K. SUBBURAJ**  
**Hon'ble Member (Technical)**

**Order Delivered on: 01.04.2021**

**ORDER**

**Per Dr. V.K Subburaj, Member (Technical)**

1. This is a petition filed by M/s. BM Pipes Private Limited the petitioner/operational creditor seeking to initiate CIRP against the Respondent company /Corporate Debtor M/s TSL Electro Power Private Limited., under Section 9 of IBC 2016 for the alleged default



on the part of the Corporate Debtor in settling an outstanding balance of Rs. 2,34,256/- including the interest component. The details of transactions leading to the filing of this petition as averred by the petitioner are as follows:-

- a. The Operational creditor is involved in the business of trading in dealing in BEC brand MS and PVC Conduct pipes and pipe fittings besides dealing in electrical Items.
- b. That the Corporate Debtor has placed Purchase Orders upon the applicant seeking supply of Conduit Pipes and pipe fittings at a project situated at Gurugram, Haryana.

Copy of the purchase orders are on record.

- c. The operational creditor issued 2 invoices amounting to Rs. 1,53,988/- on the corporate debtor and the corporate debtor had not disputed to any of the invoices before the issuance of the Demand Notice by the operational creditor.

Copy of the Invoices are annexed alongwith.

- d. That the operational creditor sent a Demand Notice dated 05.05.2019 demanding payment of an unpaid operational debt as per provisions under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 via Speed Post. Copy of the Demand Notice demanding payment in prescribed Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 duly served upon the address as per the website of Ministry of Corporate Affairs, Government of India, where the



operational creditor supplied services to the Corporate Debtor which was replied to.

- e. It is submitted that after issuance of demand notice dated 05.05.2019, the corporate debtor agreed to pay Rs. 1,53,988/- as principal sum and a settlement agreement was executed between the parties on 22.07.2019.

Copy of the settlement agreement has been filed on record.

Copy of the dishonoured cheque and the return memo issued by the bank has been placed on record.

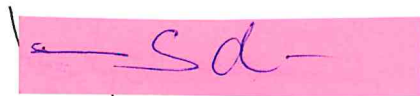
2. The Corporate Debtor in its reply to the application submits that there was no agreement between the parties in respect of payment of interest upon amount of invoices. In fact, the Corporate debtor has made payment of Rs. 1,53,988/- to Applicant from 15.01.2020 to 04.03.2020. The bank account statement showing payment to applicant is on record. It is pertinent to mention here that the applicant in its written submission has admitted the amount received from the Corporate Debtor. However, the interest amount is still not paid.
3. We have gone through the documents filed by the petitioner and heard the arguments made by the counsel of the petitioner. A perusal of the settlement agreement shows that the demand notice dated 05.05.2019 was withdrawn by the applicant and no further demand notice has been issued by applicant upon Corporate debtor which is a pre-requisite of filing of petition under Section 9. Therefore, the present



petition is non-maintainable on this count alone. However, since the principal sum i.e. Rs.1,53,988/- has already been paid by the Corporate Debtor and it is no longer res-integra that petition under Section 9 cannot be filed for claim of interest over operational debt, the present petition deserves to be rejected.

4. For the reasons stated above this petition fails and the same is rejected.
5. We make it clear that any observations made in this order shall not be construed as an expression of opinion on the merit of the controversy and the right of the Applicants before any other forum shall not be prejudiced on account of dismissal of instant application.

Let the copy of the order be served to the parties.



**(DR. V.K.SUBBURAJ)**  
**MEMBER (TECHNICAL)**



**(P.S.N PRASAD)**  
**MEMBER (JUDICIAL)**