

**NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH**

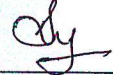
PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY- MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA - MEMBER TECHNICAL

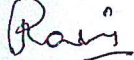
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 07.01.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 176/9/HDB/2019
NAME OF THE COMPANY	Sevwel Electronics Pvt Ltd
NAME OF THE PETITIONER(S)	Deccan Switchgears
NAME OF THE RESPONDENT(S)	Sevwel Electronics Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. K. Sajith	Adv	9985183500	

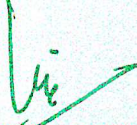
Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Ravi Kumar	Adv	9963067404	

ORDER

Order pronounced in open court. CP admitted vide separate order.


MEMBER TECHNICAL


MEMBER JUDICIAL

Rk

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, BENCH**

CP (IB) No. 176/9/HDB/2019
Under Section 9 of the IB Code, 2016,
Read with Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016.

In the matter of
M/s. Serwel Electronics Private Limited

Between:

M/s. Deccan Switchgears,
Rep. by its Proprietors,
Mr. Bollina Surya Prakash Rao,
#5-4-70, Vyas Complex,
Opp; TVS Ltd, Ranigunj,
M.G.Road, Secunderabad – 500 003.

... Petitioner/
Operational Creditor

And

M/s. Serwel Electronics Private Limited,
Rep. by its Director,
Mr. Subramanya Sarma Garimella,
No.6-3-853/1, 6-3-854 & 6-3-584A,
Meridian Plaza, Beside Lal Bungalow,
Ameerpet, Hyderabad – 500 016, Telangana.

... Respondent/
Corporate Debtor

Date of order: 07.01.2020.

**Coram: Shri. K. Anantha Padmanabha Swamy, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.**

Parties/counsels present:

For the Petitioner/
Operational Creditor:- Mr. V.K.Sajith.
Counsel.

For the Respondent/
Corporate Debtor:- Mr. V.Ravi Kumar,
Counsel.

Per. K.Anantha Padmanabha Swamy, Member Judicial.

ORDER

1. Under consideration is company petition filed by M/s. Deccan Switchgears (in short, “**Petitioner/Operational Creditor**”) against M/s.


07/01/2020



Serwel Electronics Private Limited (in short, "**Respondent/Corporate Debtor**") under section 9 of the Insolvency and Bankruptcy Code, 2016 (in short, **IB Code, 2016**) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, **IB Rules, 2016**).

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
 - a) That the Operational Creditor i.e., M/s. Deccan Switchgears is a proprietorship Company established in the year 1995 having its business address at 5-4-70, Vyas Complex, Opp; TVS Ltd., Ranigunj, M. G. Road, Secunderabad and dealing in the business of offering services/products related to Commercial & Industrial Services, Electrical Switches in Hyderabad.
 - b) That the Corporate Debtor is a Private Limited Company incorporated on 28th April 1997. It is classified as Non-Govt. Company and is registered at Registrar of Companies, Hyderabad vide CIN U32100TG1997PTC026971 and having its registered office situated at No.6-3-853/1, 6-3-854 & 6-3-854A, Meridian Plaza, Beside Lal Bungalow, Ameerpet Hyderabad-500016. It is involved in Manufacture of electronic valves and tubes and other electronic components in Hyderabad.
 - c) That the Operational Creditor had been supplying goods such as Switches, Electrical wires, switch boards etc., to the Corporate Debtor on Credit basis. The Corporate Debtor, had been very regular and prompt in clearing the invoices as and when due for the past several years.
 - d) That from March 2018, the Corporate Debtor has been irregular in making payments against the pending invoices.
 - e) That the value of the unpaid bills have mounted to Rs.16,88,014/- (Rupees Sixteen Lakhs Eighty Eight Thousand and fourteen only), as on February, 2018.

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27/01/2020

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- f) That the operational creditor has issued a Demand Notice dated 09.01.2019 in Form-3 and the same was served on the Corporate Debtor personally to its Director Mr. Subrahmanya Sarma Garimella on 12.01.2019. However the Corporate Debtor has neither responded to the demand notice nor paid the amount in default.

Reiterating the above averments, the counsel for the Operational Creditor prayed to admit the petition.

3. Respondent filed counter, *inter-alia*, stating that the Corporate Debtor is not disputing the claim amount but the same is pending on the basis of mutual understanding between the parties on the terms of payment:

- (i) It is stated that as per the purchase order raised by the Corporate Debtor only, the Operational Creditor supplied the materials which were quoted by the Corporate Debtor in its quotation.
- (ii) It is further stated that that the Corporate Debtor received a Demand Notice dated 09.01.2019 under Section 8 of IBC, 2016 from the Operational Creditor to repay the outstanding dues within a period of 10 days from the date of receipt of that notice. That the Corporate Debtor received the said notice on 12.01.2019 from the Operational Creditor personally, at that time also the Corporate Debtor herein requested the Operational Creditor not to initiate any action against the Corporate Debtor's Company since the Company is in the process of the recovering the dues from its own debtors and requested the Operational Creditor to give some time to clear the dues on a priority basis, but the Operational Creditor herein having the knowledge of the situation of the Corporate Debtor filed the present application before this Adjudicating Authority.

Reiterating the above contentions, counsel for the Respondent/Corporate Debtor prayed to dismiss the application.

4. Counsel for the Petitioner/Operational Creditor also filed written submissions reiterating the above averments and prayed to admit the application.
5. Heard both sides, and perused the records.

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6. It is the case of the Petitioner that it had supplied goods such as switches, electrical wires, switch boards etc., to the Corporate Debtor under various invoices during the period 27.10.2017 to 27.03.2018 for which an amount of Rs. 16,88,014.05/- was due and payable by the Corporate Debtor. Respondent in its counter neither denied the receipt of the said goods nor raised any pre-existing dispute. This Adjudicating Authority further observes that the Corporate Debtor in its counter has acknowledged its debt and default on its part.
7. This Adjudicating Authority is satisfied that the Petitioner by placing evidence has proved the existence of operational debt in excess of Rs,1,00,000/- in respect of which default as stated in the petition has occurred, for which the Corporate Debtor was liable to pay. The Petitioner has also placed on record, proof of sending notices and other material papers. The Petitioner has complied with all the requirements as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant Petition.
8. The instant petition is hereby admitted and this Adjudicating Authority Orders the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed as per the time line stipulated in section 12 of the IB Code, 2016, reckoning from the day this order is passed.
9. This Adjudicating Authority hereby appoint Mr. Pavan Kankani [IP Regn. No. IBBI/IPA-002/IP-N00368/2017-2018/11062] (IRP) as the name proposed by the Operational Creditor and his name is reflected in IBBI website. He has also filed his written consent in Form - 2. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date of this order, and call for submissions of claim in the manner as prescribed.

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10. This Adjudicating Authority hereby declares the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, namely:

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 action under the Securitisation and Reconstruction of Operational 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 the possession of the corporate debtor.

e) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

11. However, the supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

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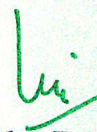
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12. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
13. The Petitioner/Operational Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
14. The Registry is also directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
15. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
16. The address details of the IRP are as follows:-

Mr. Pavan Kankani,
IP Regn. No. IBBI/IPA-002/IP-N00368/2017-2018/11062,
F-45, 5-9-1121, Agarwal Chambers,
King Koti, Abids,
Hyderabad - 500001, Telangana.
Cell. No.9849026725.
Email: ippavankankani@gmail.com.

17. The present Petition bearing CP (IB) No. 176/9/HDB/2019 is hereby admitted.


07.01.2020
Dr. Binod Kumar Sinha
Member Technical


K. Anantha Padmanabha Swamy
Member Judicial