

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

5. C.P.(IB)-1193(MB)/2021

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **25.01.2022**

NAME OF THE PARTIES: VARDHAMAN CABLE & CONDUCTOR

Vs.

SHRINIVAS ELECTRICALS GTD PRIVATE LIMITED.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Operational Creditor, Mr. Ashiwin Poojari and Counsel for the Corporate Debtor, Mr. Rajat Malu are present through virtual hearing.

Heard the arguments of the counsel appearing for the Petitioner. After hearing the submissions and upon perusing the material available on record, it is observed that the Corporate Debtor has not raised any substantial legal pleas in opposing the above Company Petition. The Corporate Debtor did not raise any serious legal pleas even in the reply except explaining the Financial difficulties of the Corporate Debtor.

Therefore, this is a case where the Corporate Debtor is clearly admitting the debt and default. The Operational Creditor also suggested the name of the proposed IRP to be appointed in this Case.

The Operational Creditor satisfied all the legal requirements for admission of the above Company Petition.

Accordingly, the above Company Petition is admitted. Detailed order will follow.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 1193/IBC/MB/2021

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

**VARDHMAN CABLE &
CONDUCTORS, A PARTNERSHIP
FIRM**

Having registered office at: 129/C,
Shindoli B. K. Tal, Chandgad,
Dist Kolhapur-416507, Maharashtra
.....Operational Creditor

Vs

**SHRINIVAS ELECTICALS GTD
PRIVATE LIMITED**

(CIN: U45400MH2011PTC224557)
Registered office at: Shrinivas Tower
I, S. No. 15/3, Plot No.5, Narayan
GurudeoTrust, Pakhal Road, Nashik-
422006

.....Corporate Debtor

Order delivered on: 25.01.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Petitioner: Mr. Ashiwin Poojari

For the Respondent: Mr. Rajat Malu

The above Company Petition is filed by M/s. Vardhman Cable & Conductors, A Partnership Firm hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Shrinivas Electricals GTD Private Limited called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs.25,90,60,759.24/ (Principal amount is Rs. 13,84,69,658/- with interest @ 24% is Rs.12,05,91,101.24/-)

BRIEF FACTS OF THE CASE

1. The present Petition has been filed by the Operational Creditor for default committed by the Corporate Debtor for an amount of Rs. 25,90,60,759.24/- against invoices raised by the Operational Creditor on the basis of the various purchase orders issued by the Corporate Debtor.
2. The Operational Creditor further submits that on 8th July 2021 via registered post issued a demand notice to the Corporate Debtor under Section 8 (1) of the Insolvency and Bankruptcy Code, 2016, being due and payable by the Corporate Debtor to the Operational Creditor till date.
3. The Operational Creditor further submits that the Corporate Debtor has replied to the demand notice on 14.07.2021 and confirmed the outstanding dues mentioned in the demand notice but however till today has not paid any sum being due and payable to the Operational Creditor.
4. The Operational Creditor had issued purchase orders for the purpose of procurement of various Supply of Electrical Goods and has raised several invoices from time to time.

5. The Operational Creditor followed up with the Corporate Debtor however, the Corporate Debtor kept on making false promises. Disillusioned by the false promises of the Corporate Debtor.

FINDINGS

6. Heard the arguments of the counsel appearing for the Petitioner and perused the record. Counsel appearing for the Corporate Debtor fairly submitted that the Corporate Debtor is admitting the claim of the Operational Creditor in the above Company Petition and did not raise any serious legal pleas even in the reply except explaining the Financial difficulties of the Corporate Debtor. In view of the above admission made by the Corporate Debtor, this Bench has no option except to admit the above Company Petition. The Ld. Counsel appearing for the Petitioner invited the attention of this Bench to the relevant invoices basing on which the above Company Petition is filed. The Ld. Counsel appearing for the Petitioner also invited the attention of this Bench to the demand notice along with the postal receipt and track report in proof of service of demand notice on the Corporate Debtor.
7. After hearing the submissions of the counsels appearing for the Petitioner and upon perusing the material available on record, this Bench is of the considered opinion that the Operational Creditor has successfully demonstrated the existence of debt and default committed by the Corporate Debtor. The Operational Creditor also issued Demand Notice under section 8 of the Code for which the Corporate Debtor. The Operational Creditor also suggested the name of proposed IRP.
8. Since the invoices are pertaining to the period 2019, the above Company Petition being filed on 09.12.2021 is well within limitation. Thus, the Petitioner has satisfied all the necessary legal

requirements for admission of the above Company Petition and the above Company Petition deserves to be admitted.

9. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 1193(MB)/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Shrinivas Electricals GTD Private Limited.
- b. This Bench hereby appoints **Mrs. Vaishali Arun Patrikar**, Insolvency Resolution Professional, Registration No: IBBI/IPA-002/IP-N00812/2019-20/12566 as suggested by Operational Creditor in the Company Petition.
- a. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- b. 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 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- c. 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.
- d. 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.
- e. 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.
- f. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- g. 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.
- h. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- i. Accordingly, this Petition is admitted.
- j. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)