



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

2. C.P.(IB)-1722(MB)/2017

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
SMT. ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **06.07.2022**

NAME OF THE PARTIES: Classic Glass Glazing
V/s.
Alumayer India Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Aayush Shah, counsel appearing for the Operational Creditor, Mr. Omkar Gandhi, counsel appearing for the Corporate Debtor are present through virtual hearing.

Heard both sides and perused the material available on record. The Corporate Debtor is virtually admitting the debt and default in this case. The only defence of the Corporate Debtor is with regard to the quantum of the amount claimed by the petitioner in the present company petition. The learned counsel appearing for the Operational Creditor invited the attention of this bench to a summary chart duly signed and sent by Corporate Debtor to the Operational Creditor which was annexed at page No. 63 of the company petition wherein the Corporate Debtor himself admitted the outstanding liability as on 12.12.2014 at Rs. 24,78,045/-. When once the debt and default are proved, and if the admitted amount meet's the threshold limit of Rs. 1 lakh and above, this Bench has no other go except to admit the petition. Crystallization of exact amount is beyond the scope of section 9 petition.



Admittedly the Corporate Debtor did not issue any reply to the Demand Notice nor raised any issues with regard to the defect quality in goods and service prior to issuing Demand Notice by the Operational Creditor so as to draw the inference of pre-existing dispute. Under these circumstances this bench has no hesitation in holding that this is a fit case for admission and accordingly, the above company petition is admitted. Detailed order follows:-

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)

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

SKS



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

C.P. No. 1722/IBC/MB/2017

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

CLASSIC GLASS GLAZING

Having registered office at:

Narmada – I, Building – 10,

Shop No. 2, Near Bhaujale Talao,

Chincholi Bunder Talao,

Malad (W), Mumbai - 400064

.....Operational Creditor

Vs

**ALUMAYER INDIA PRIVATE
LIMITED**

Registered office at:

Office No. 1002, 10th Floor,

Building No. A1 Rupa Solitarie,

Sector 1, MBP, Mahape,

Thane Navi Mumbai - 400710

.....Corporate Debtor

Order delivered on: 06.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)



Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Applicant: Mr. Aayush Shah, Advocate

For the Respondent: Mr. Omkar Gandhi, Advocate

1. The above Company Petition is filed by *Classic Glass Glazing* hereinafter called as "Operational Creditor" seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *Alumayer India Private Limited* hereinafter 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 an unresolved Operational Debt of Rs. 35,25,068/- (Rupees Thirty-Five Lakhs Twenty-Five Lakhs Five Thousand and Sixty-Eight Only).

2. The brief facts of the case are as follows:-

- i. The Applicant and the Respondent had entered into a contract around June, 2012, appointing the Applicant to supply goods and render various services of Work Contract for:-
 - a. Supply, Fabrication and Erection of Steel work for stone are cladding work.
 - b. Unitized structure Glazing.
 - c. Various other services.
- ii. The Corporate Debtor issued work orders dated 13.06.2012 for GHQ Reliance (MS Work) and 25.11.2013 for RTG Ghansoli projects respectively. The scope of work, payment terms and other conditions were clearly stated in the work orders issued by the Corporate Debtor



appointed the Operational Creditor to provide goods and services for another project namely Lodha Supremus. As the scope of work was minor, the Corporate Debtor did not issue work order but informed the Operational Creditor verbally about the same. Accordingly, the Operational Creditor supplied the necessary goods and services as required by the Corporate Debtor.

- iii. The Corporate Debtor certified the invoices claimed by the Operational Creditor for a total amount of Rs. 64,44,438/- (Rupees Sixty Four Thousand Four Hundred and Thirty Eight only). The Corporate Debtor made irregular part payments to the extent of Rs. 42,47,302/- (Rupees Forty Two Lakhs Seven Thousand Three Hundred and Two only) thereby leaving a balance of Rs. 21,21,642/- (Rupees Twenty One Lakhs Twenty Six Hundred and Forty Two only).
- iv. The last payment received by the Operational Creditor from the Corporate Debtor was on 21.02.2015 for an amount of Rs. 2,56,583/- (Rupees Two Lakhs Fifty Six Thousand Five Hundred and Eighty Three only).
- v. The Operational Creditor issued Demand Notice dated 19.09.2019 whereby to the Corporate Debtor to pay a sum of Rs. 35,25,068/- (Rupees Thirty Five Lakhs Twenty Five Lakhs Five Thousand and Sixty Eight Only) within ten days of receipt of the notice. The said Demand Notice was duly received by the Corporate Debtor but was no reply was duly received for the said Demand Notice.
- vi. The Operational Creditor further states that in spite of the repeated requests and reminders, the Corporate Debtor till date failed and neglected to repay the outstanding



dues of the Corporate Debtor thereby giving rise to a cause of action to this present application.

vii. Hence, the present petition be admitted, and corporate insolvency resolution process be initiated against the Corporate Debtor.

3. The Corporate Debtor filed affidavit in reply dated 11.06.2018 on a routine manner. The main contentions raised by the Corporate Debtor on maintainability, claim amount and irregularities in the demand notice opposing the above Company Petition.
4. In response to the above reply filed by the Corporate Debtor the Operational Creditor also filed rejoinder dated 31.12.2018 contradicting the pleas raised by the Corporate Debtor in their reply.

FINDINGS / OBSERVATIONS

5. Heard both sides and perused the material available on record. The Corporate Debtor is virtually admitting the debt and default in this case. The only defence of the Corporate Debtor is with regard to the quantum of the amount claimed by the petitioner in the present company petition. The learned counsel appearing for the Operational Creditor invited the attention of this bench to a summary chart duly signed and sent by Corporate Debtor to the Operational Creditor which was annexed at page No. 63 of the company petition wherein the Corporate Debtor himself admitted the outstanding liability as on 12.12.2014 at Rs. 24,78,045/-. When once the debt and default are proved, and if the admitted amount meet's the threshold limit of Rs. 1 Lakh and above, this Bench has no other go except to admit the



petition. Crystallization of exact amount is beyond the scope of section 9 petition. Admittedly the Corporate Debtor did not issue any reply to the Demand Notice nor raised any issues with regard to the defect quality in goods and service prior to issuing Demand Notice by the Operational Creditor so as to draw the inference of pre-existing dispute.

6. In view of the above observations, this Bench is of the view that the above Company Petition satisfies all the legal requirements for admission and deserves to be admitted. Accordingly, this bench admits the above Company Petition by passing the following:

ORDER

- a. The above Company Petition No. (IB) 1722 (MB)/2017 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Alumayer India Private Limited.
- b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Rajas Shreeram Bodas**, having Registration No: IBBI/IPA-002/IP-N01200/2021-2022/14010, email: rajasbodas1@gmail.com and Mobile No. (+91) 9371733388, as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- a. The Operational Creditor shall deposit an amount of Rs. 2 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/-

**ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO
MEMBER (JUDICIAL)**