

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II**

CP (IB) 918/MB/C-II/2020

Under section 10 of the Insolvency &
Bankruptcy Code, 2016 r.w. Rule 7 of the
Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016

In the matter of

**IGOPL Offshore Private Limited
[CIN: U11101MH2008PTC183100]**

Floral Deck Plaza, A Wing, 6th Floor, Unit
No 603-606, Central MIDC Road, Opp.
Seepz, Andheri (East), Mumbai-400093
...Corporate Applicant

Order Delivered on 15.01.2021

Coram:

Mr. H. P. Chaturvedi	: Hon'ble Member Judicial
Mr. Ravikumar Duraisamy	: Hon'ble Member Technical

Appearances:

For the Corporate Applicant	: Mr Raghunath Bhandari, PCS a/w Mr Bhubesh Dhumatkar, Advocate
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ORDER

Per: H. P. Chaturvedi, Member (Judicial)

1. This is a Company Petition filed by IGOPL Offshore Private Limited, through its Managing Director, Mr. Jai Kishan Thappa (hereinafter called "Corporate Applicant"), under section 10 of the Insolvency & Bankruptcy Code, 2016 ("the Code") read with Rule 7 of the

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution Process.

2. The Corporate Applicant was incorporated on 03.06.2008 having a paid up share capital of ₹ 24,18,700/- (Rupees Twenty-Four Lakh Eighteen Thousand and Seven Hundred Only) was engaged in the business of subsea diving and Grouting.
3. Its Board of Directors of the Corporate Applicant in its meeting held on 30.04.2020 passed a resolution to file a Petition under section 10 of the Code for initiation of CIRP. Mr. Jai Kishan Thappa, Managing Director, has been authorized to sign and submit the same.
4. The Corporate Applicant submits that payment receivable to it accumulated over the years and some of the amount which was outstanding was declared as bad debts in the Corporate Applicant's Books of Accounts, due to Corporate Applicant's stressed financial condition, it was not in a position to clear the creditor's debts.
5. The Corporate Applicant states that the receivables from its Debtors stand at ₹ 47,57,79,643/- (Rupees Forty-Seven Crore Fifty-Seven Lakhs Seventy-Nine Thousand Six Hundred Forty-Three Only) against an outstanding amount of ₹ 86,29,98,340 (Rupees Eighty-Six Crore Twenty-Nine Lakh Ninety-Eight Thousand Three Hundred and Forty Only) payable to its Creditors. Despite all its efforts to pay and after repayment of a part of the outstanding dues, the balance debt outstanding as reflected in the books of account stand at ₹ 56,24,53,432/- (Rupees Fifty-Six Crore Twenty-Four Lakh Fifty-

Three Thousand Four Hundred Thirty-Two Only), besides the interest component. The interest continues to accrue on these amounts separately as per the terms agreed with individual creditors. The same is evident from the records.

6. It is further submitted that an Application under section 9 of the Code has been filed against the Corporate Petitioner in October 2018 by one of the Operational Creditors. Thereafter almost thirty Petitions have been filed. Some of which are listed for hearing. The Corporate Petitioner further by way of Interlocutory Application No. 1037 of 2020 submits that its financial status is in a precarious condition. It has been unable to pay salary and wages amounting to ₹ 19,34,005/- (Rupees Nineteen Lakh Thirty-Four Thousand and Five) as on 01.07.2020, to its permanent employees for the past 6 months. The Applicant as on 01.07.2020, also owes ₹ 46,73,620/- (Rupees Forty-Six Lakh Seventy-Three Thousand Six Hundred and Twenty) to the Contractual workers. Due to the current pandemic and other legal predicaments, the Petitioner is unable to meet its basic liabilities. Mounting salary burden alone has made it difficult for it to revive.
7. The Corporate Applicant submits that since the Company was engaged in subsea related activities, it had purchased a vessel. It was unable to pay the fuel charges and other outstanding vendor bills, due to which the vendors filed a petition before the Hon'ble High Court of Bombay in its Commercial Division under Admiralty jurisdiction to arrest the Corporate Petitioner's vessel for recovering the amount due. Vendors got the vessel arrested under the Admiralty Law. The copy

of the order of arrest dated 07.07.2020 has been filed. It was thus forced to pay the vendors and fuel bills to the tune of ₹ 29,15,79,335/- (Rupees Twenty-Nine Crore Fifteen Lakh Seventy-Nine Thousand Three Hundred and Thirty-Five) before paying the salaries of the employees, in order to continue with its business activities and generate income and pay other dues and liabilities.

8. The Applicant further states that since the vendors sought to arrest the ships at any time, it disrupted the income generation and added to the financial woes of the Company. Hence, the Petition for Resolution of the Company.
9. The Corporate Applicant by way of Interlocutory Application No. 1037 of 2020 submits that as on 01.07.2020 the mounting interest on the loan amount of ₹ 21,03,67,101/- (Twenty-One Crore Three Lakh Sixty-Seven Thousand One Hundred and One only) is only adding more stress to the Financial status of the Petitioner.
10. The Corporate Applicant submits that the Petitioner also owes ₹ 1,15,77,705/- (Rupees One Crore Fifteen Lakh Seventy-Seven Thousand Seven Hundred and Five Only) to Government of India towards TDS and GST dues.
11. The Corporate Applicant has enclosed the following to the Petition.
 - a. The names and addresses of the Directors and Promoters of the Company along with their respective shareholding.
 - b. Copy of its Certificate of Incorporation dated 03.06.2008.

- c. Copy of the its Memorandum of Association.
- d. Copy of Board Resolution dated 30.04.2020 approving the filing of the present Application.
- e. List of Financial and Operational Creditors with Names, Address, Total Debts and amount in default.
- f. List of Security with date of its creation and estimated value along with Certificate of charge dated 19.12.2017.
- g. Copies of Audited financial statements of the Corporate Debtor for the last two financial years i.e. 2017-18 and 2018-19.
- h. The Provincial financial statements for the current financial year up to 30.04.2020.

12. This Tribunal observed vide order dated 01.10.2020 that

“The Company Petition is not admitted. Notice under proviso to section 10(4)(b) of the Code is hereby given to the Corporate Applicant to rectify the defect as indicated above within 7 (seven) days hence. Upon compliance, the matter shall be placed before the appropriate Bench for hearing. On the event of Petitioner’s failure to comply the same, the Company Petition shall stand rejected without further reference to the Bench.”

13. Thereafter rectification was carried out by Petitioner and finally matter was heard and reserved for orders vide order dated 11.11.2020

“Ld Advocate Mr. Bhupesh Dhumatkar along with Ld PCS Mr. Raghunath Bhandari appeared for the corporate applicant through Virtual Hearing (VC) and they submitted that as per the Orders of this Bench dated 01.10.2020, they have rectified the defect and filed the rectified petition on 06.10.2020 i.e. within the stipulated time.

The matter was heard de novo and the submission of the Ld counsels are heard and reserved for Orders.”

14. This Bench has gone through the Petition and heard the arguments of the counsel and came to a conclusion that the Corporate Applicant is unable to make payment to various creditors and thus has defaulted in making payments of its Debts.

15. On reading the Petition and the supporting documents annexed with the Petition, it is noticed that the Petitioner Corporate Applicant has submitted all relevant particulars and information, supported by document, to meet the requirement of the I B Code. Hence the present I B Petition is found complete and its filing is found in order in all respect. Hence the present I B petition is admitted with following direction:

- (a) The moratorium is pronounced u/s 14 of the Code.
- (b) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the

Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority as per Section 14(1)(a) of the Code;

- (c) transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein as per Section 14(1)(b) of the Code;
- (d) any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as per Section 14(1)(c) of the Code;
- (e) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant as per Section 14(1)(d) of the Code;
- (f) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (g) 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.
- (h) That the order of moratorium shall have effect from this date till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 of the Code or passes an order for liquidation of

Corporate Applicant under Section 33 of the Code, as the case may be.

- (i) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (j) That this Bench hereby appoints Mr. Bhavesh Rathod, (having Registration No. IBBI/IPA-001/IP-P01200/2018-19/11910 and having address A/101, Shelter CHSI, CSC Road, Opp. Shakti Nagar, Dahisar East, Mumbai – 400068) as Interim Resolution Professional to carry out the functions as mentioned under the Code.

16. Accordingly, this Petition is admitted.

17. The Registry is hereby directed to communicate a copy of this order to the Applicant and the Interim Resolution Professional immediately.

Sd/-

RAVIKUMAR DURAISAMY
Member (Technical)

15.01.2021

SAM

Sd/-

H. P. CHATURVEDI
Member (Judicial)