

IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH

C.P. (IB).No.505/9/HDB/2018

U/s 9 of IBC, 2016

In the matter of:

Mr. Narendra Sakariya  
Proprietor of Madras Steels & Tubes  
Megh Synergy # 45 Halls Road  
Kulpauk, Chennai – 600010

... Petitioner/  
Operational Creditor

VERSUS

M/s Skyra Infra Tech Private Limited  
MIG B 29. H.No. 8-3-167/29  
Prema Nilayam Venkateswara Colony  
Beside Gokul Theatre Road  
Hyderabad – 500018  
Telangana

... Respondent /  
Corporate Debtor

Date of order: 26.09.2019



Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narendra Kumar Bhola, Member (Technical)

Parties/Counsels Present:

For the Petitioner: Shri J. Goverdhan Reddy along with Shri Md.  
Raheem, Advocates

Heard on: 02.08.2019, 27.08.2019 & 16.09.2019

*MS*

*[Signature]*



Annexure-C (Colly) at page Nos. 25-30. The Operational Creditor raised 07 invoices as under:-

Details of invoices	Date of invoice	Outstanding amount (Rs)
0550/18-19	06.12.2018	16,45,600/-
0553/18-19	10.12.2018	16,21,851/-
0556/18-19	10.12.2018	16,60,691/-
0569/18-19	18.12.2018	12,37,538/-
0570/18-19	18.12.2019	12,37,538/-
0572/18-19	19.12.2018	12,34,082/-
0573/18-19	19.12.2018	12,31,612/-
Total		98,68,912/-

Copy of Invoices raised by Operational Creditor is marked as Annexure-D (colly) at page nos. 31-42.

- (4) When Corporate Debtor failed to make payment, the Operational Creditor issued Demand Notice in Form 3 on 20.05.2019. The date of default in respect of the invoices is dated 06.12.2018 to 19.12.2018. As such the Corporate Debtor is liable to pay to the Operational Creditor an amount of Rs. 98,68,912/- plus interest Rs. 4,74,091/- @ 18% p.a, total amount to Rs. 1,03,43,003/-. The Operational Creditor also filed copy of the Ledger of Corporate Debtor in its Books of Account which is marked as Annexure-E.



### OBSERVATIONS

3. We heard the Counsel for Operational Creditor. Notice was ordered to the Corporate Debtor on 02.08.2019 and directed the Counsel for Operational Creditor to serve on the Corporate Debtor and file proof of service and adjourned the matter to 27.08.2019.

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4. On 27.08.2019, the Counsel for Operational Creditor filed memo stating that notice was served on the Registered office of Corporate Debtor by Registered AD and filed India Post Track consignment report which shows the notice was delivered on 21.08.2019. The Counsel for Operational Creditor served notice on the email address of the Corporate Debtor on 09.09.2019 and compliance memo to this effect is filed on 16.09.2019. However, none appeared for Corporate Debtor and there was no representation for Corporate Debtor. The service was held sufficient and Corporate Debtor was treated as absent on 16.09.2019.
5. This Petition is filed under Section 9 of Insolvency & Bankruptcy Code, 2016. The information with regard to the operational debt which is committed default by Corporate Debtor is furnished in Form-5 filed by the Operational Creditor. The case of Operational Creditor is that Corporate Debtor committed default in repaying an amount of Rs. 1,03,43,003/- under Purchase orders which are marked as Annexure-C (Colly) at page Nos. 25-30 of the paper booklet. The statutory demand notice in Form 3 dated 20.05.2019 as required under Section 8 of IBC, 2016 is marked as Annexure-I (Colly) at page Nos. 52-58. The copy of Purchase Order is marked as Annexure C (Colly) at page Nos. 25-30 and copy of invoices are marked as Annexure D (Colly) at page Nos. 31-42. The Operational Creditor has also filed copy of ledger of Corporate Debtor in the books of account of Operational Creditor evidencing the debt which is marked as Annexure-E at page No. 43. Thus, Operational Creditor is able to establish debt and also default. Though notices were served on the Corporate Debtor, none appeared for the Corporate Debtor and service was held sufficient.
6. Further no reply was received by the Operational Creditor to the demand notice dated 20.05.2019. The Counsel for Operational Creditor stated that the claim is not barred by limitation. The Operational Creditor also suggested the name of Mr Kedarram R Laddha to act as Interim Resolution Professional. The proposed Interim Resolution Professional has given written consent in Form-2 which is marked as Annexure "N" (colly at page Nos. 75-79. He has also certified



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that there are no disciplinary proceedings pending against him.

ORDER

7. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

- (1) The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;
- (2) 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.
- (3) 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.
- (4) That the order of moratorium shall have effect from 25.09.2019 till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of



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Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.

- (5) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.
- (6) This Tribunal appoints Mr Kedarram R Laddha, having Registration No. IBBI/IPA-001/IP-P00586/2017-2018/11115 # 6/5 Sahayog Apartment, Keshavnagar, Subhashbridge, RTO Circle, Ahmedabad – 380027, Gujarat, Mob: 9737533000, to act as Interim Resolution Professional.



Accordingly, this Petition is admitted.

*NK*  
26.9.2019  
NARENDER KUMAR BHOLA  
MEMBER (TECHNICAL)

*26.9.19*  
RATAKONDA MURALI  
MEMBER (JUDICIAL)

*Binnu*

*Gumf*  
By Regr./Asst. Regr. Court Officer/  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
CERTIFIED TRUE COPY  
केस संख्या  
CASE NUMBER (P/IB) No. 505/9/HDB/2018.  
निर्णय का तारीख  
DATE OF JUDGEMENT 26/9/19  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON 27/9/19