

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

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

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 05.01.20201 AT 10:30 AM

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|----------------------------------|-----------------------------------|
| TRANSFER PETITION NO. | |
| COMPANY PETITION/APPLICATION NO. | CP (IB) No. 115/9/HDB/2020 |
| NAME OF THE COMPANY | Covidh Technologies Ltd |
| NAME OF THE PETITIONER(S) | Coleta Software Solutions Pvt Ltd |
| NAME OF THE RESPONDENT(S) | Covidh Technologies Ltd |
| UNDER SECTION | 9 of IBC |

Counsel for Petitioner(s):

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------|------------------------|-----------|
| | | | |
| | | | |

Counsel for Respondent(s):

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------|------------------------|-----------|
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ORDER

Orders pronounced vide separate orders.


MEMBER (TECHNICAL)


MEMBER (JUDICIAL)

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

CP (IB) No.115/9/HDB/2020

Petition under section 9 of IBC, 2016 read
with Rule 6 of I & B (AAA) Rules, 2016

In the matter of

M/s Covidh Technologies Limited

In the matter between:

M/s Coleta Software Solutions Private Limited
Flat No.305A, H. BNo.8-3-945, 3rd Floor
Pancom Business Centre, Ameerpet
Hyderabad, Telangana – 500073.

.. **Petitioner/
Operational Creditor**

Versus

M/s Covidh Technologies Limited

.. **Respondent
Corporate Debtor**

Date of order: 05.01.2021

Coram:

**HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)**

and

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Parties / counsels present:

For the Petitioner: V. Venkata Rami Reddy,
Vanga Anita and
V. Pandu Ranga Reddy, Advocates

For the Respondent: C. Shilpa, advocate

**Per: SHRI K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)**

Heard on: 19.11.2020, 14.12.2020 and 21.12.2020.

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AVERMENTS

This petition is filed by Messrs Coleta Software Solutions Private Limited, who is the Operational Creditor, stating that an amount of Rs.1,65,99,798/- (Rupees one crore sixty five lacs ninety nine thousand seven hundred ninety eight only) is due from the Corporate Debtor towards supply of computers and peripherals, IT hardware, etc. during Financial year 2018-19. Hence this petition is filed under section 9 of Insolvency and Bankruptcy Code, 2016, read with Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments made in the petition are as follows:

2.1 The Operational Creditor is in the business of rendering services relating to supply of computers and peripherals, IT hardware and other related produces. Based on the assurances and representations of the Corporate Debtor, the Operational Creditor had supplied computers and peripherals, IT hardware and other products to the Corporate Debtor vide Invoices produced at ANNEXURE II(F). The Corporate Debtor has to pay Rs.1,65,99,798/- for supply of said goods during FY 2018-19. Detailed statement sheet is at ANNEXURE II(G).

2.2 Demand Notice dated 03.12.2019 [ANNEXURE I(A)] under section 8(1) of the I&B Code was issued to the Corporate Debtor. Postal receipts and track reports are at ANNEXURE I(B). Since there is no effective payment by the Corporate Debtor, this petition is preferred.

COUNTER DATED 17.11.2020 FILED BY THE CORPORATE DEBTOR.

3. The respondent-corporate debtor has filed counter dated 17.11.2020. The averments made in the counter are as follows:

- (i) That the Corporate Debtor has partly denied averments made by the Operational Creditor in the petition. It is stated that the Corporate Debtor is **not liable to pay** the amount of **Rs.1,65,99,798/-** to the Operational Creditor. Rather the



amount due as per the records of the Corporate Debtor is only **Rs.1,05,77,500/-**.

- (ii) The Corporate Debtor has approached the Operational Creditor/ company to allow the Corporate Debtor to pay the due amount in 21 monthly instalments at Rs.5,00,000/- since the Corporate Debtor/ company is in financial crisis.
- (iii) The Operational Creditor/company was being contacted regularly to do the favour since both the companies are doing fruitful business since long time and the managements are in good terms.

WRITTEN SUBMISSIONS DATED 21.12.2020 FILED BY THE CORPORATE DEBTOR.

4. The Corporate Debtor contradicts the amount due and states that as per the record of the Corporate Debtor, the amount due is only **Rs.1,05,77,500/-** and not **Rs.1,65,99,798/-** as claimed by the Operational Creditor.

5. The Corporate Debtor reiterates its submission made in its counter, viz. the Operational Creditor may consider the request of the Corporate Debtor to allow it to repay the amount due in 21 monthly instalments of Rs.5,00,000/- having regard to the financial crisis the Corporate Debtor is undergoing.

WRITTEN SUBMISSIONS DATED 21.12.2020 FILED BY THE OPERATIONAL CREDITOR.

6. It is submitted that despite Demand Notice dated 03.12.2019 having been served in Forms 3 & 4 under section 8(1) of the I&B Code calling upon the Corporate Debtor to make unconditional repayment of the unpaid operational debt within 10 days, and the same having been served on the Corporate Debtor, the Corporate Debtor has not made effective payment. The Operational Creditor has given, in column 5 of the Written Submissions, the details of documents based on which the Operational Creditor has raised the demand.

7. As regards the statement of the Corporate Debtor that the amount due is only Rs.1,05,77,500/- and not as claimed by the Operational

Creditor, viz. Rs.1,65,99,798/-, the Operational Creditor has questioned why the Corporate Debtor has not produced any documentary evidence in support of his claim. As regards the concession asked for by the Corporate Debtor to repay the amount due in 21 monthly instalments of Rs.5,00,000/-, the Operational Creditor refused to consider the same.

OBSERVATIONS:

8. Heard the Counsel for Operational Creditor and Counsel for Corporate Debtor.

9. The Petitioner is Operational Creditor. The Petitioner filed the present petition under Section 9 of IBC, 2016. It is the case of the petitioner herein that it has supplied computers and peripherals, IT hardware and other products to the Corporate Debtor vide Invoices produced at ANNEXURE II(F). The Corporate Debtor has to pay Rs.1,65,99,798/- for supply of said goods during FY 2018-19. There is no dispute about the goods supplied by the Operational Creditor and the Corporate Debtor receiving the same. The differences crept in between the Operational Creditor and Corporate Debtor are:

- (i) The amount due as per the Operational Creditor is **Rs.1,65,99,798/-**, whereas the amount due as per the Corporate Debtor is **Rs.1,05,77,500/-**; and
- (ii) The Corporate Debtor requests the Operational Creditor to allow the Corporate Debtor to repay the amount due in 21 monthly instalments at Rs.5,00,000/- having regard to the financial crisis the Corporate Debtor undergoing. However, the Corporate Debtor refuses to entertain such request.

10. The dispute is in a narrow compass, but it is difficult to reconcile. The Corporate Debtor accepts the liability but disputes the quantum of amount due. Though the Corporate Debtor contradicts the amount due and claims lesser amount to be due and payable, the Corporate Debtor could not prove it by leading documentary evidence. Besides the Operational Creditor is not agreeable to entertain the request of the Corporate Debtor to allow it to repay the amount due in 21 monthly instalments.



11. We have gone through the petition filed by the operational creditor, counter filed by the corporate debtor, Written Submissions filed by both the parties. We have also perused the Statement Sheets produced by the Operational Creditor at pages 104 to 106 of the petition. We are of the view that a scrutiny of the said evidence confirms the veracity of the claim of the Operational Creditor. The Corporate Debtor has not been able to bring on record any evidence to prove the amount due and payable as claimed by the Corporate Debtor. In above view of the matter, we are of the opinion that the present petition needs to be admitted under section 9 of the IB Code.

12. The counsel for the operational creditor has produced a copy of Form-2 dated 03.02.2020 (ANNEXURE-VI, page 109) proposing the name of Interim Resolution Professional.

13. 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: -

- (a) 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;
- (b) 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.
- (c) 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.

- (d) That the order of moratorium shall have effect from the date 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, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (f) That this Bench hereby appoints Ms. NARALA VARALAKSHMI, 1-8-588/29/A, Achhainagar, Baghlingampally, Back side RTC Kalyana Mandapam, Hyderabad, Telangana – 500044, having IBBI Registration No. IBBI/ IPA-002/ IP- N00620/ 2018-19/ 11980, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Registration is valid till 27.11.2021 as per the information available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
- (g) Accordingly, this Petition is admitted.
- (h) Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)