

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB) No.72/BB/2019
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

M/s. Rashmika Info Technologies
Private Limited
#4/2, 2nd Floor, 9th 'A' Cross,
12th Block, Kumarapark West,
Bengaluru – 560 020.

- Petitioner/Operational Creditor

Versus

M/s. Bunt Solar India Private Ltd.
Regd. Off: No.23, 24, MM Complex,
PapareddyPalya, 2nd Stage,
Nagarabhavi,
Bengaluru – 560 072.

- Respondent./Corporate Debtor

Date of Order: 14th June, 2019

- Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri G. Sathyanarayana

For the Respondent : Ms. Natasha N. Murthy

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB) No.72/BB/2019 is filed by M/s. Rashmika Info Technologies Private Limited ('Petitioner/Operational Creditor') U/s 9 of the Insolvency and Bankruptcy Code, 2016 R/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s.Bunt Solar India Private Limited ('Respondent/CorporateDebtor') on the ground that the Corporate Debtor committed default for a total outstanding amount of Rs.13,57,260/- (Rupees Thirteen Lakh Fifty Seven Thousand Two Hundred and Sixty Only) as on 30.09.2018.

2. Brief facts of the case, as mentioned in the Company Petition, are as follows:

(1) M/s.Rashmika Info Technologies Private Limited (herein after referred to as Petitioner/ Operational Creditor') is a Private Limited Company incorporated on 20.08.2010 under the provisions of Companies Act, 1956 with CIN: U72200KA2010PTC054908and having its registered office at No.4/2, 2nd Floor, 9th 'A' Cross, 12th Block, Kumarapark West, Bengaluru-560024. The main objects of the Petitioner , in brief, are to carry on the business as developers, importers, exporters, buyers, sellers, or otherwise dealers in the field of Software Development, Application Development and Implementation, Product Development, Marketing Software, etc.

(2) M/s.Bunt Solar India Private Limited ('Respondent/ Corporate Debtor') is a Private Limited Company incorporated on 12.06.2013 under the provisions of Companies Act, 1956 with CIN: U51109KA2013PTC069667 and having its registered office at No.23, 24, MM Complex, Papareddy Palya, 2nd Stage, Nagarabhavi, Bengaluru-560072. The Nominal Share Capital of the Respondent is

Rs.2,00,00,000/- (Rupees Two Crores Only) and the Paid-up Share Capital of the Company is Rs.1,90,00,000/- (Rupees One Crore Ninety Lakhs Only). The main objects of the Respondent, in brief, are to engage in and carry on the business as designers, researchers, developers, manufacturers, buyers, sellers, assemblers, importers, exporters, distributors, dealers of and agents, wholesale trader, retail trader in solar and its related products and other energy efficient products.

- (3) The Corporate Debtor approached the Operational Creditor in order to develop and supply of various websites/software for its business and the Operational Creditor agreed to develop the websites/software in accordance with the requirements and specifications of the Corporate Debtor and agrees to make payment in monthly instalments after developing the websites/ software as mentioned in the each agreements. The Operational Creditor has developed the websites/software in accordance with the requirements and specifications of the Corporate Debtor and provided web maintenance services.
- (4) However, after developing the websites/software and providing services amounting to Rs.19,76,906/- the Operational Creditor received Rs.6,19,646/- and the Corporate Debtor did not repay the balance in instalments totaling to Rs.13,57,260/-, which had the repayment period as mentioned in the agreement. Hence, the Corporate Debtor defaulted in repayment of balances to the Operational Creditor as per the agreed terms.



(5) The Operational Creditor has issued notices calling for repayment of agreed instalment amounts from time to time for which the Corporate Debtor has not responded. The Corporate Debtor neither responded nor regularized the outstanding balances. The Operational Creditor has also issued a demand notice in Form 3, U/R 5 of the I&B (AAA) Rules, 2016 on 11.11.2018 to the Corporate Debtor calling upon unconditionally repay the unpaid operational debt (in default) in full within ten days from the receipt of this letter failing which they shall initiate a CIRP in respect of M/s.Bunt Solar India Private Limited to repay the Rs.13,57,260 outstanding balance immediately. The Corporate Debtor replied on 15.11.2018 to the Operational Creditor stating that due to demonetization, implementation of Goods and Services Tax (GST) and Reduction Tariff Rate by Government of Karnataka there is a weak demand for the solar and its related products they could not able to cope up with our promise to clear the outstanding balance so far. The Company is going through a financial stress on account of above factors and we are planning to infuse more capital and increase the bank loan to overcome this stress. In coming days that is form the beginning of next year they hope that the tremendous demand for roof tops and they are able to improve the financial condition of the Company. Despite, they are trying their best to repay the outstanding balance at the earliest. Other default of Corporate Debtor as on 31.03.2016 is (a) Trade Payable Rs.6,88,52,966/- (b) Short term borrowing Rs.5,14,61,229/- (The Bharath Co-



Operative Bank (Mumbai) Limited) (c) Statutory duties payable Rs.48,18,030/-.

(6) It is stated that the Corporate Debtor has not filed Annual Returns and Balance Sheet with ROC for the year ended 31.03.2017 and 31.03.2018 in the MCA Portal. It is also stated that there are huge balances outstanding and not paid as per the latest available Balance Sheet (31.03.2016) to Banks and other Operational Creditors.

(7) The instant Company Petition is filed to initiate CIRP against the Respondent.

3. Heard Shri G. Sathyanarayana, learned PCA for the Petitioner and Ms. Natasha N. Murthy, learned Counsel for the Respondent. We have carefully perused the pleadings of the parties and the extant provisions of the Code.
4. Learned PCA for the Petitioner, while reiterating the averments made in the main Company Petition has further submitted that the instant Company Petition is filed in accordance with law and they have admittedly committed a default and the Company is also insolvent. A qualified Insolvency Professional namely Shri Gorur N. Venkataraman, having Regn.No.IBBI/IPA-003/IP-N00075/2017-18/10585 is proposed as Interim Resolution Professional (IRP) to be appointed. He has also given Form-2 in Written Communication dated 04.01.2019 and also filed an Affidavit dated 01.02.2019, by inter alia stating that he is a qualified Insolvency Professional having Registration No.IBBI/IPA-003/IP-N00075/2017-18/10585, and no disciplinary proceedings are pending against him with the Board or IPA of Institute of Cost Accountants of India.



5. Learned Counsel for the Respondent has filed a Memo dated 12.06.2019, by inter alia stating that the Company is not able to pay the instant outstanding amount apart from other liabilities, and filed a statement for a total outstanding amount of Rs.22,17,23,626/-. Therefore, they are not disputing the debt and default and they have no objection to initiate the Corporate Insolvency Resolution Process.
6. On perusal of the pleadings, we are convinced that the debt and default in question as claimed by the Petitioner is not in dispute and the application is filed in accordance with law. A qualified Insolvency Professional is also suggested who is prima facie eligible to be appointed. Hence, it is a fit case for admission to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, appointing IRP, Moratorium etc., as per the Code.
7. In the result, by exercising powers conferred on this Adjudicating Authority under Section 9(5)(i) and other extant provisions of the Code. C.P. (IB) No.72/BB/2019 is hereby admitted with the following consequential directions:
 - (1) We hereby appointed **Shri Gorur N. Venkataraman** with **Regn.No.IBBI/IPA-003/IP-N00075/2017-18/10585**, as the Interim Resolution Professional (IRP) to conduct the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor namely M/s. Bunt Solar India Private Limited to carry out the functions as mentioned under the I&B Code, 2016 and the Rules framed by the IBBI from time to time.
 - (2) The following moratorium is declared prohibiting all of the following, namely:



- a. 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;
- b. transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- c. 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- e. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- f. The provisions of sub-section (1) shall not apply to such transaction as may be notified by the Central Government in consultation with any financial regulator.
- g. The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process.



- (3) The IRP is directed to follow all extant provisions of the IBC, 2016 and the Rules including fees rules as framed by the IBBI from time to time.
- (4) The Board of Directors and all the staff of the Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by the IBBI.
- (5) The IRP is directed to file his progress reports to the Tribunal from time to time about the steps taken in pursuance to the CIRP. The IRP is further directed to take expeditious steps so as to complete the process of CIRP within the stipulated time.
- (6) Post the case for report of the IRP on **04th July, 2019**.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL