

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH – C5

C.P. No. 3917/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Clasis Law

14th Floor, Dr. Gopal Das Bhawan, 28,

Barakhamba Road, Delhi – 110 001

.... Petitioner

v/s

Starkenn Sports Private Limited

Bungalow – B22, Pinnacle Ridge, SN.

33/36, Khondwa Road, Pune – 411 048

.... Corporate Debtor

Order delivered on: 19.12.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Aniketh Nair a/w Mr. Shrikant Pillai, Advocates.

For the Corporate Debtor: None Present.

Per: V. Nallasenapathy, Member (T)

ORDER

(Order Pronounced in the Court on: 09.12.2019)

1. This company Petition is filed by Clasis Law (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Starkenn Sports Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment of Rs. 9,35,006/-, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that the Petitioner has rendered legal services to the Corporate Debtor and raised the following invoices to the extent of Rs. 9,35,006/-

Invoice No.	Date	Amount No.
DEL/SL/553/2013-14	06.02.2014	79,230
DEL/SL/086/2014-15	07.05.2014	57,800
DEL/SL/394/2014-15	13.10.2014	23,650
DEL/SL/506/2014-15	10.11.2014	23,530
DEL/SL/578/2014-15	10.12.2014	23,350
DEL/SL/422/2015-16	10.08.2015	50,235
DEL/MWMD/939/2015-16	30.03.2016	50,445
DEL/MWMD/134/2016-17	06.05.2016	22,120
DEL/MWMD/430/2016-17	08.08.2016	22,115
DEL/MWMD/488/2016-17	05.09.2016	22,215
DEL/MWMD/745/2016-17	07.11.2016	95,758
DEL/MWMD/800/2016-17	05.12.2016	1,23,284
DEL/MWMD/925/2016-17	10.01.2019	88,961
DEL/MWMD/1040/2016-17	11.02.2019	88,093
DEL/MWMD/1162/2016-17	15.03.2019	25,664
IN02-0000317	14.06.2017	72,456
IN02-0001204	12.03.2019	22,000
CLDSHW0086/18-19	09.08.2018	22,000
CLDSHW0092/18-19	07.09.2018	22,100
	TOTAL	9,35,006/-

3. Counsel for the Petitioner submits that the demand notices under Section 8 of the Code were sent to the Corporate Debtor on 24.01.2019 and on 09.10.2019. However, there was no reply from the Corporate Debtor for the Demand Notices and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

4. Petitioner submits that the Corporate Debtor made the following payments to the extent of Rs. 4,75,611/-.

S. No.	Date of Payment	Amount (in Rs.)
1	13/08/2015	250,000
2	04/04/2016	200,000
3	19/10/2016	25,611

5. Counsel for the Petitioner enclosed the following emails in support of his claim, which reads as below:

a. Email dated 23.07.2018 sent by the Petitioner to the Corporate Debtor

"Dear Mr. Patil,

As informed by us before, please note that captioned matter is listed tomorrow for further proceedings/hearing on our application under Order XXXIX Rule 4 of CPC.

However, we have not received any instructions from you in relation to the captioned matter despite our several emails.

As such and as also informed to you before, we have no option but to seek discharge of Clasis Law as yours and Defendant No. 2's Advocates in the matter. Please note that we will be informing the above developments to the Hon'ble Court tomorrow and will be filing an application seeking discharge of Clasis Law from the matter.

Please also clear ours and the counsel's outstanding invoices at the earliest.

Regards,

Shwetabh"

b. Email dated 23.07.2018, sent by the Corporate Debtor to the Petitioner

"Dear Shwetabh,

As discussed, lets close the case, I don't think we need to take it forward as Starkenn is already known in the market now. Also, we have spent a lot of money without much success.

Please send me the statement and will clear your outstanding as soon as possible.

Warm regards, Pravin."

6. The above email clearly shows that the Corporate Debtor is liable to make the payment as claimed by the Petitioner for availing legal services and the amount claimed is a operational debt. It is also clear that the Corporate Debtor failed to make the payment despite service of demand notice.

7. The Counsel for the Petitioner filed proof of service for serving the notice issued by the Registry of this Tribunal to the Corporate Debtor. Despite service of notice there is no appearance on the side of the Corporate Debtor.

8. It is clear from the above facts that the Corporate Debtor has committed debt and default and the petition deserves to be admitted.

9. On 19.12.2019, one Mr. Udaykumar Bhaskar Bhat, office at B-304, Goldville, Aundh Ravet Road, Dange Chowk, Thergaon, Pune – 411 033; having email address: udaybhat2805@gmail.com, having Registration No. IBBI/IPA-001/IP-P01425/2018-19/12234 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

10. This Bench having been satisfied with the petition filed by the Petitioner which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

(a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; 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.

(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 19.12.2019 till the completion of the CIRP 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.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Udaykumar Bhaskar Bhat, office at B-304, Goldville, Aundh Ravet Road, Dange Chowk, Thergaon, Pune – 411 033; having email address: udaybhat2805@gmail.com, having Registration No. IBBI/IPA-001/IP-P01425/2018-19/12234 as Interim Resolution Professional to carry the functions as mentioned under the Code.

11. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)