

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IBA/1429/2019 filed under Section 9 of
the Insolvency and Bankruptcy Code,
2016 (in short, **IB Code, 2016**) r/w Rule 6
of the Insolvency and Bankruptcy
(Application of Adjudicating Authority)
Rules, 2016.

In the matter of M/s. Crown Rotmax Engineering Private Limited

RAK Engineering

Rep. by its Proprieter K. Ramakrishnan
FL1, 9 Park Avenue,
Keshavperumalapuram,
Greenways Road
Chennai-600028

---Operational Creditor

V/s

Ms/. Crown Rotmax Engineering Private Limited
(U45400TN2013PTC093815)
No. 178/10, Ground Floor,
Kodambakkam High Road
Opp. Hotel Palgrove,
Nungambakkam, Chennai-600034

---Corporate Debtor

Coram:

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Operational Creditor: *Shri. M.S Subramaniam, Party in Person*

For Corporate Debtor : *Shri. Ramakrishnan, Advocate*
For Mr. Sathya Ganesh, Advocate

IBA/1429/2019

In the matter of M/s. Crown Rotmax Engineering Private Limited



ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order pronounced on: 27.04.2021

Under consideration is an Application (in short "IBA") filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (in short, **IB Code, 2016**) r/w Rule 6 of the Insolvency and Bankruptcy (Application of Adjudicating Authority) Rules, 2016 (for brevity, **AAA Rules 2016**) by M/s. RAK Engineering, represented by its Proprietor Mr.K. Ramakrishnan (hereinafter referred as "**Operational Creditor**") for initiate Corporate Insolvency Resolution Process (in short "**CIRP**") against M/s. Crown Rotmax Engineering Private Limited (hereinafter referred as "**Corporate Debtor**") on the ground that the Corporate Debtor defaulted in paying Rs.3,16,12,730/- to the Operational Creditor including interest at the rate of 18% per annum.

2. Learned Counsel for the Operational Creditor submits that M/s. Tamil Nadu Transmission Corporation Limited (TANTRANSCO), Chennai has awarded the contract to M/s. SEW

IBA/1429/2019

In the matter of M/s. Crown Rotmax Engineering Private Limited

Infrastructure Limited (SEW) who have entrusted the execution of the entire work by virtue of Sub-Contract Agreement for civil works and installation services to Corporate Debtor on 07.01.2016. It is further submitted that the Corporate Debtor had placed various work orders to the Operational Creditor towards entire civil and erecting works and the Operational Creditor carried out the construction works meticulously in both the transmission lines as instructed by Corporate Debtor under the supervision of both SEW as well as TANTRANSCO officials and the works carried out by Operational Creditor was also certified by Corporate Debtor's officials and SEW.

3. It is averred that the Operational Creditor, had submitted its invoices to Corporate Debtor which were duly acknowledged. The Corporate Debtor has not made any payments against the running bills amounting to Rs.2,70,16,480/- together with an interest @ 18% per annum for the works completed during the period from August 2018 to December 2018. The Corporate Debtor had accepted the above amount to be paid to the Operational Creditor in the meeting

IBA/1429/2019

In the matter of M/s. Crown Rotmax Engineering Private Limited



held on 07.03.2019. The Corporate Debtor has not made any effort to pay and settle the outstanding operational debt inspite of several requests and reminders from the Operational Creditor. The Operational Creditor was constrained to issue a legal notice through their lawyers followed by Demand Notice under Form-3 as per Section 8 IBC on 13.09.2019 calling upon the Corporate Debtor to pay the outstanding amount of Rs.2,70,16,480/- together with interest at the rate of 18% per annum from the date of submission of bills but which was returned with an endorsement "Unclaimed".

4. In support of the claim, the applicant has filed following documents:

- (i) *Copy of work orders issued by the Corporate Debtor to the Operational Creditor;*
- (ii) *Copy of invoices raised by the Operational Creditor*
- (iii) *Statement of Account;*
- (iv) *Copy of Balance Sheet of the Corporate Debtor; and*
- (v) *Copy of accounts of the Operational Creditor confirming that there is no payment of the relevant unpaid operational debt*

5. The notice of summons issued to respondent was returned with the endorsement "left". Hence notice by way of publication was ordered. As per the order of this Tribunal dated 10.02.2021, the operational creditor was directed to take fresh notice to the respondent in the leading newspapers and same was effected in leading newspapers one in English and another in vernacular Tamil both dated 26.02.2021. In spite of this, the Corporate Debtor remained absent. On 23.03.2021, the respondent was called absent and set ex-parte.

6. Upon perusal of pleading, documents and submission, this Adjudicating Authority is of the view that debt and default has been established by the Operational Creditor.

7. By taking into consideration the facts mentioned supra, we are inclined to **admit** this **IBA/1429/2019** and consequently Corporate Insolvency Resolution Process is initiated.

8. Since the Operational Creditor has not named the Insolvency Resolution Professional, this Tribunal based on the list furnished by Insolvency and Bankruptcy Board of India appoints **Mr. R. Velu,**

IBA/1429/2019

In the matter of M/s. Crown Rotmax Engineering Private Limited



Regn. No. IBBI/IPA-001/IP-P00127/2017-2018/10629 as the “Interim Resolution Professional” subject to the condition that no disciplinary proceedings are pending against the Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- (i) The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (ii) transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;*
- (iv) Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

IBA/1429/2019

In the matter of M/s. Crown Rotmax Engineering Private Limited



(v) *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.*

9. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

(a) 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.

(b) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

10. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

(i) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:



- (ii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

11. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/-** (*Rupees Two Lakh Only*) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



12. Based on the above terms, the Application stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry.

13. Accordingly, this IBA/1429/2019 is hereby **admitted**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

knp

IBA/1429/2019

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