

**NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

(IB)-1742 (ND)2019

IN THE MATTER OF:

M/s OM Logistics Limited

130, Transport Centre, Ring Road,

Punjabi Bagh, New Delhi-110035

...Operational Creditor

VERSUS

Ryder India Pvt. Ltd.

104 -105, Plot No. H-7 Aggarwal Plaza,

Netaji Subhash Place, Delhi-110034

...Corporate Debtor

Section: 9 of IBC, 2016

Order Delivered on: 26.09.2019

Quorum:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner : Ms. Mahe Zehra

For the Respondent : None



(IB)- 1742(ND)2019

M/s. Om Logistics Ltd. Vs. Ryder India Pvt. Ltd.

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

The present Petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Om Logistics Ltd. (for brevity 'Operational Creditor') through its authorized representative Sh. Vinay Kumar, who is duly authorized vide Board Resolution dated 02.02.2019, with a prayer to initiate the Corporate Insolvency process against M/s Ryder India Pvt. Ltd. (for brevity 'Corporate Debtor').

2. The Operational Creditor namely, Om Logistics Ltd. is a Company incorporated under the provisions of Companies Act, 1956 with CIN No. U63023DL2001PTC112366, having its registered office at 130, Transport Centre Ring Road, Punjabi Bagh, New Delhi-110035.

3. The Corporate Debtor namely, M/s Ryder India Private Limited is a Company incorporated on 01.10.2013 under the provisions of Companies Act, 2013 with CIN No. U19100DL2013PTC258581, having its registered office at 104 -105, Plot No. H-7 Aggarwal Plaza, Netaji Subhash Place, Pitampura, Delhi-110034.



4. The Authorised Share Capital of the Respondent Company is Rs. 1,30,00,000 and Paid Up Share Capital of the Company is Rs. 1,30,00,000 as per Master Data of the Company annexed.

5. It is the Petitioner's case that they have rendered transportation facility to the Respondent. It is submitted by the Petitioner that :-

“The Operational Creditor quoted their rates as well as the terms and conditions for the transportation of the goods of the Operational Debtor. The Operational Debtor clearly understood and accepted the offered rates as well as the other terms and conditions of the Operational Creditor.”

6. That the details of the unpaid invoices as provided by the Petitioner are reproduced below:

DATE	INVOICE NO.	INVOICE AMOUNT (Rs)
03.01.2016	130,742,700,246	25,500
04.02.2016	130,742,700,272	28,050
1.05.2016	13,071,613,000,002	8,015
13.06.2016	13,071,613,000,064	11,270
22.07.2016	13,071,613,000,127	19,215
05.08.2016	13,071,613,000,190	1,510
09.09.2016	13,071,613,000,279	5,710
20.09.2016	13,071,613,000,357	3,750
06.10.2016	13,071,613,000,395	745
19.11.2016	13,071,613,000,599	1,230
26.04.2017	13,071,613,000,177	7160
Total		Rs. 1,12,155

7. As per the Ledger Account Annexed by the Petitioner, the last payment received by them is of Rs. 785 on 10.07.2017. Further, the Ledger Account reflects entries pertaining to the dishonored cheques issued by the Respondent, which were issued towards part payment of the operational debt.

8. It is stated by the Petitioner that since the Respondent Company had failed to liquidate its dues, it had sent a Demand Notice dated 02.01.2019, under Section 8 of IBC 2016 on 04.01.2019 vide Speed Post to the Registered Office of the Respondent. They have added that the Demand Notice was served through Speed Post on 05.01.2019.

9. That the Petitioner in their Affidavit under Section 9(3)(b) of IBC, 2016 had made specific averment regarding non-receipt of Notice of any dispute issued by the Respondent. Further, the Petitioner has annexed Certificate of ICICI Bank in compliance of Section 9(3)(c) of IBC, 2016 on 17.06.2019.

10. As none appeared on behalf of the Corporate Debtor Company during the proceedings, the Corporate Debtor was proceeded ex-parte vide Order dated 29.08.2019 of this Bench.



11. In the given facts and circumstances, the present petition being complete and having established the default in payment of the operational debt, the Petitioner Company is entitled to claim its dues. The amount of default being above Rs. 1,00,000 for the invoices, the Petition is admitted in terms of Section 9(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

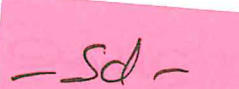
- “(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate 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.”

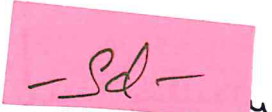
12. The Operational creditor has not proposed any IRP. Therefore, this bench based on the list furnished by IBBI, appoints Mr. Bikram Singh Gusain (Email Id: bikramgusain@gmail.com) with IBBI Registration No. IBBI/IPA-002/IP-N00011/2016-17/10015 subject to the condition that no disciplinary proceedings are pending against the IRP named and

disclosures as required under IBBI Regulations, 2016 are made within a period of one week from this order. The IRP is directed to take the steps as mandated under this Code specifically under Section 17, 18, 20 and 21 of IBC, 2016.

13. The Operational Creditor is directed to deposit Rs. 50,000 (Fifty thousand) only to meet the immediate expenses of the IRP, for which he shall be liable to account for.

14. In terms of the above, the Application stands admitted under 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 Petitioner, Respondent as well as to the IRP named above by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the IRP named above will also be furnished with a copy of this order forthwith by the Registry of this Tribunal.


(L. N. Gupta)
Member (T)


(Ina Malhotra)
Member (J)