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

C.P. (IB)No.96/BB/2019
U/s. 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

M/s. Charan Logistics

A Sole Proprietorship Firm
No.12, 2nd Floor, Anbu Nagar,
Canal Road, Korattur,
Chennai – 600 076,
Tamil Nadu

- Petitioner/Operational Creditor

Versus

**M/s. Muralikrishna Infracon
(Bangalore) Private Limited**

No.334, Sahakaranagar Post
Tatanagar,
Bengaluru – 560 092

- Respondent/Corporate Debtor

Date of Order: 9th August, 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 : Ms. Mano Ranjani
For the Respondent : None



ORDER

Per: Rajeswara Rao Vittalana, Member (Judicial)

1. C.P.(IB)No.96/BB/2019 is filed by M/s. Charan Logistics (Petitioner/Operational Creditor) u/S. 9 of IBC, 2016, R/w Rule 6 of 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. Muralikrishna Infracon (Bangalore) Private Limited (Respondent/Corporate Debtor) on the ground that the Corporate Debtor has committed default for total an amount of Rs.8,33,216/- (Rupees Eight Lakhs Thirty Three Thousand Two Hundred and Sixteen only) which includes principal amount and interest.
2. Brief facts of the case, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:
 - (1) M/s. Charan Logistics (herein after referred as Petitioner/ Operational Creditor) is the sole proprietor of M/s. Charan Logistics, a proprietorship firm registered under the Government of Tamilnadu, Department of Industries and Commerce and is registered with the Ministry of Micro, Small and Medium Enterprises and its Udyog Aadhar Number is TN24E0017532 and it provides the transport hiring services.
 - (2) The Operational Creditor is a Micro, Small and Medium Enterprise (MSME) with an equity participation of Rs.5,00,000/- by the Proprietor and is engaged in providing transport services. Any small default in payment adversely effects it business operations.



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- (3) M/s. Muralikrishna Infracon (Bangalore) Private Limited (herein after referred to as Respondent/Corporate Debtor), is a Company incorporated under the provisions of the Companies Act, 2013 bearing CIN: U45205KA2013PTC072722. Its Authorised Share Capital is Rs.5,00,00,000/- (Rupees Five Crores only) divided into 50,00,000 (Fifty Lakhs only) equity shares of Rs.10/- (Rupees Ten only) each and Paid-Up Share Capital of Rs.3,25,00,000/- (Rupees Three Crore Twenty Five Laksh only) divided into 32,50,000 (Thirty Two Lakhs Fifty Thousand only) equity shares of Rs.10/- (Rupees Ten only) each.
- (4) It is stated that on 15th November 2016, the Corporate Debtor issued a work order in the name of Operational Creditor for Transportation of bulk bitumen VG-30 from Indian Oil Corporation Ltd., CPCL Campus, Chennai to its project site at 926, Periyar Nagar, Vasantham Nagar, Virudhachalam, Cuddalore (Dist.), Tamilnadu at the rate of Rs.1200/- per ton. Though the terms of payment were not mentioned in the purchase order, due to some clerical error, the general practice is that the bill will be raised once in a month by the Operational Creditor and the payment will be done within 15 days of the bill date by the Corporate Debtor.
- (5) The Operational Creditor has provided services from November 2016 to June 2018 for a total billing value of Rs.19,82,532/- against which the Corporate Debtor made a payment of Rs.12,10,252/- and there is a balance of Rs.7,72,280/- which is principal amount and is yet to be paid by the Corporate Debtor along with an interest of



Page 3 of 9

Rs.60,936/-. The Operational Creditor made several requests to the Corporate Debtor asking for balance payment, however, till date the Corporate Debtor has not made the payment.

- (6) On 22nd December 2018, the Operational Creditor under the provisions of Sections 213 and 214 of the IBC approached National E-Governance Services Limited (NeSL – Information Utility) and updated its Record of Financial information in Form C with NeSL and posted the details of its transactions and debt due from the Corporate Debtor. On 2nd February 2019 NeSL, issued a report on Record of Debt and Default stating 'Authentication not done by Debtor' and stated the default amount as Rs.8,33,216/-.As per Rule 5 of I&B (AAA) Rules, 2016, the Operational Creditor issued statutory demand notice dated 22.12.2018, in Form 3 & 4, which is received by the Corporate Debtor on 27.12.2018.
- (7) The period of ten (10) days was expired from date of delivery of the demand notice demanding payment and the operational creditor has not received any payment or notice of dispute regarding the pending amount from the Corporate Debtor. Also, the Corporate Debtor has not issued any reply to the demand notice dated 22.12.2018.
3. Heard Ms. Mano Ranjani, learned Counsel for Petitioner and none appeared for the Respondent, even though notice as ordered by this Adjudicating Authority, and the learned Counsel for the Petitioner has served notice to the Respondent and it amounts to accepting debt and default in question.
4. The case is listed for admission on various dates viz, 26.03.2019,



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15.04.2019, 09.05.2019, 06.06.2019, 17.06.2019, 02.07.2019, 23.07.2019 and 09.08.2019 to give opportunity to the Respondents. However, the Respondents failed to avail the opportunities given.

5. Ms. Mano Ranjani Learned Counsel for the Petitioner submits that they have issued demand notice in Form 3, by demanding to pay the outstanding amount within a period of 10 days. However, the Respondent failed to pay the outstanding amount, leading the Petitioner to invoke provisions of the Code.

The Respondent has addressed a letter dated 09.04.2019, which reads as under:

Kind Attn: Mr. Yadagiri

Subject: Late Payment – reg.

Dear Sir,

First of all we would like to thank you for your patience and valuable support. We sincerely apologize for not being able to clear your dues with respect to TNRSP-II (SH-70 Project) on time due to non-release of bills from TNRSP in July 2018, for the work executed and expecting that the payment will be released within 15 days, as per the terms of the contract. But in spite of waiting for more than 2 months, it was not released. We had faced similar issues in our earlier bills also, which was released in installments for more than 2 months. Hence we were forced to approach the Arbitral Tribunal to address the issue and enable to release our payments at the earliest.

In the meanwhile we were looking for other options to clear your dues. Now that the fund has been arranged, we take pleasure in



clearing the overdue within a month's time. Request you to kindly accept and acknowledge the same.

We once again appreciate your valuable & continued support and look forward to continue doing business with your company in the future days too.

Sorry for the delay and inconvenience caused”.

6. The learned Counsel for the Petitioner submits that, the instant Company Petition is filed in accordance with law, there is an admitted debt and default and same is not in dispute having not received reply to the demand notice in question. And a qualified Resolution Professional namely Shri Chandrasekhar Sagutoor, bearing Registration No. IBBI/IPA-001/IP-P00960/2017-2018/11581 is proposed to appoint him as Interim Resolution Professional, who has filed Written Communication dated 08.02.2019 in a prescribed forum, by inter alia declaring that he is qualified to be appointed as such, not undergoing any disciplinary case etc. Therefore, the learned Counsel urged the Tribunal to admit the instant Company Petition by initiating CIRP as prayed for.
7. The above facts clearly show that the instant Company Petition is filed in strictly in accordance with provisions Code, admittedly, there is a debt and default in question, due notice was given to the Corporate Debtor for payment of outstanding amounts. And Shri Chandrasekhar Sagutoor, bearing Registration No. IBBI/IPA-001/IP-P00960/2017-2018/11581 is suggested to appoint him as IRP and he has also filed his written consent communication in Form No.2 dated 08.02.2019, by inter alia, stating that he is



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a qualified Resolution Professional having Regn. No. IBBI/IPA-001/IP-P00960/2017-2018/11581, and there are no disciplinary proceedings pending against him with the IBBI; he is not currently serving as an interim Resolution Professional/Resolution Professional / liquidator. Therefore, we are of the considered opinion that the instant case is fit case to admit by initiating CIRP against the Corporate Debtor, appointing IRP, Moratorium etc., as per the Code.

8. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority, U/s 9(5)(i) and other extant provisions of the IBC, 2016, the following orders are passed:

- 1) C.P.(IB)No.96/BB/2019 is hereby admitted by initiating Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Muralikrishna Infracon (Bangalore) Private Limited, Corporate Debtor;
- 2) Shri Chandrasekhar Sagutoor, bearing Registration No. IBBI/IPA-001/IP-P00960/2017-2018/11581, who is qualified Resolution Professional, is hereby appointed as Interim Resolution Professional, in respect of the Corporate Debtor to carry on the functions as mentioned under the Insolvency and Bankruptcy Code, 2016 and various rules issued by IBBI from time to time;
- 3) 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 transactions as may be notified by the Central Government in consultation with any financial sector regulator as also not applicable to surety.
- g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;
- h) The IRP should follow all extant provisions of IBC, 2016 and the rules including fees rules as framed by IBBI. The IRP is hereby directed to file his report in the Tribunal from time to time.



(Signature)

- 4) The Board of Directors and all the staff of 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 IBBI.
- 5) IRP is further directed to strictly adhere time schedule as mentioned under the Code. And he is directed to file progress reports from time to time to the Tribunal.
- 6) Post the case for submission of report of the IRP on **09.09.2019.**

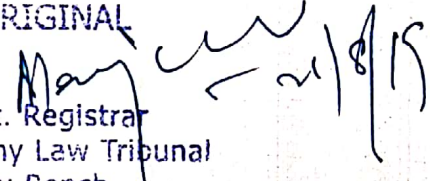

(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

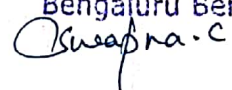

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Shruthi



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Deputy/Asst. Registrar
National Company Law Tribunal
Bengaluru Bench


Swapna.C