

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

C.P. No. 2752/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Lalita Tours and Travels

111/T53, 1<sup>st</sup> floor, Shree Kedareshwar, Sion  
Transit Camp Road, near Hanuman Mandir,  
Pratiksha nagar, Sion (east), Mumabi – 400  
022

.... Petitioner

v/s.

J D Engineer Surveyors Private Limited

Shop No. 10, Arjun CHS, Shiv Mandir Road,  
Ramnagar, Dombivali (west), Thane,  
Mumbai – 421 201

.... Corporate Debtor

Order delivered on: 14.10.2019

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

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

For the Petitioner : Mr. Vinay Kore a/w Ms. Rupali Khule, Advocats i/b Platina Law Chambers.

For the Corporate Debtor: Mr. Suresh Tripathi, Director.

*Per: Suchitra Kanuparthi, Member (J)*

**ORDER**

1. This company Petition is filed by Lalita Tours and Travels (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against J D Engineer Surveyors Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment of Rs. 4,03,800/-, 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 on 14.12.2017 the Petitioner and the Corporate Debtor entered into a contract wherein the Corporate Debtor agreed to hire 'Maruti Swift Dzire LDI BS IV' having number 'MH01 BT8581' on rental basis. The contract

was made for a period from 14.12.2017 to 30.11.2019 with a rent of Rs. 40,000/- per month.

3. The petitioner carried out its contractual duty for the Corporate Debtor in terms of the said contract and raised invoices amounting to Rs. 6,00,000/- on the Corporate Debtor. Thereafter the Corporate Debtor has made part-payment amounting to Rs. 1,96,200/- and still there is a balance Rs. 4,03,800/- payable by the Corporate Debtor.

4. After several reminders made by the Petitioner to the Corporate Debtor, the Corporate Debtor failed to pay the outstanding dues. On 15.06.2019 the Petitioner issued Demand Notice demanding a sum of Rs. 4,03,800/- under Section 8 of the Code. However, there was no reply from the Corporate Debtor for the Demand Notice 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. The Petitioner has also obtained a bank certificate dated 15.07.2019 from Canara bank confirming that there is no payment of an unpaid dues is made by the Corporate Debtor. The outstanding amount that is in default is more than Rs. 1,00,000/-. The petition filed by the Petitioner is on proper Form 5, as prescribed under the Adjudicating Authority Rules and application is complete.

5. On 22.08.2019, during the hearing of this matter one Mr. Suresh Tripathi, Director of the Corporate Debtor appears before this Bench and admits the liability and default and hence there is no objection for admission of the Petition by the Corporate Debtor.

6. One Mr. Rakesh Tulsyan, office at B-4, Vinay Tower, Kranti Nagar, Lokhandwala, Kandivali (east), Mumbai – 400 101; having Registration No. IBBI/IPA-001/IP-P01144/2018-19/11970 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

7. This Bench having been satisfied with the application filed by the Operational Creditor 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 14.10.2019 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. Rakesh Tulsyan, office at B-4, Vinay Tower, Kranti Nagar, Lokhandwala, Kandivali (east), Mumbai – 400 101; having Registration No. IBBI/IPA-001/IP-P01144/2018-19/11970 as Interim Resolution Professional to carry the functions as mentioned under the Code.

8. Accordingly, this Petition is admitted.

9. 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)