IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-364/ND/2019

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

M/S JASMEET ASSOCIATES
Through its Partner Sh. Shamsher Singh

…Applicant/Operational Creditor

VERSUS

SHRI GANESH FIRE EQUIPMENTS PRIVATE LIMITED

…Respondent/ Corporate Debtor

Judgment Pronounced on:06.02.2020

CORAM:

DR. DEEPTI MUKESH
HON'BLE MEMBER (Judicial)
SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (Technical)

MEMO OF PARTIES

M/S JASMEET ASSOCIATES

Through its Partner Sh. Shamsher Singh

Registered at: D-192/2, Mayapuri

Industrial Area, Phase II

New Delhi-110064

…Applicant/ Operational Creditor

VERSUS

SHRI GANESH FIRE EQUIPMENTS PRIVATE LIMITED

Registered office at 6/117 First Floor, Didar Commercial Complex

DLF Industrial Area, Moti Nagar

New Delhi-110015

…Respondent/ Corporate Debtor

For the Applicant: Mr. Jatin S. Sethi, Advocate

For the Respondent: ------

ORDER

Per-Dr. Deepti Mukesh, Member (J)

1. The Present Application 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 Jasmeet Associates through its Partner Sh. Shamsher Singh (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against Shri Ganesh Fire Equipment's Private Limited (for brevity 'Corporate Debtor').
2. The applicant is a partnership firm which is registered under Indian Partnership Act, 1932 having TIN No. 07250206120. The firm is having its place of business at D-197/2, Mayapuri Industrial Area, Phase-II New Delhi-110064.
3. The corporate debtor is a private limited company duly registered and incorporated under the provisions of the Companies Act, 1956 on 14.06.2010, bearing CIN U29300DL2010PTC204055. The company is having its registered office at 6/117 First Floor, Didar Commercial Complex DLF Industrial Area, Moti Nagar New Delhi-110015.

4. The Applicants states that during 22.02.2016 to 26.02.2016, the applicant had supplied goods i.e. mix metal scrap to the corporate debtor to the tune of Rs 32,62,450/- and had raised various invoices for the said period.

5. The Applicant submits that despite various requests/reminders, the corporate debtor paid no heed to the said reminders and requests, and no payment was made.

6. The Applicant issued a demand notice dated 14.12.2018 under the provisions of section 8 of I&B Code, 2016 (Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 calling upon the corporate debtor to pay the total outstanding amount of Rs. 32,62,450/-. The said notice was served through speed post at its registered address as reflected in MCA website. The tracking report for the speed post reflecting 'Item Delivered' is annexed. The corporate debtor neither replied to the said notice nor made the payment of the said outstanding dues.

7. Hence, the Applicant filed present Application on 12.02.2019 under section 9 of IBC, 2016 and served the copy of this application through speed post at the address as reflected on MCA website. The affidavit of

service is filed along with tracking report reflecting 'Item Delivered', at the registered address as per master data.

8. According to the applicant, the Corporate Debtor is liable to pay a sum of Rs 32,62,450/- (Rupees Thirty-Two Lacs Sixty-Two Thousand Four Hundred Fifty Only) along with interest thereon to the applicant as due and payable as per Part IV of Form 5.

Sl. No.	**Bill No.**	**Book No.**	**Date**	**Amount**
1.	424	14	26.02.2016	Rs 18,13,540/-
2.	422	14	26.02.2016	Rs. 14,49,000/-

9. The Corporate Debtor has neither filed any reply nor appeared before the bench and was proceeded ex-parte on 21.05.2019.

10. The Applicant has filed an affidavit under section 9(3)(b) affirming that no notice of dispute has been given by the Corporate debtor relating to dispute of the unpaid operational debt.

11. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.

12. The date of default as per Form V occurred on 31.03.2016 and the application is filed on 12.02.2019, hence the debt is not time barred and the application is filed within the period of limitation.

13. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, which remain uncontroverted by the Corporate Debtor, establishing the default in payment of the operational debt beyond doubt. The present application is admitted, in terms of section 9 (5) of IBC, 2016.

14. Since the Applicant has not named the Insolvency Resolution Professional, this Tribunal based on the list furnished by Insolvency and Bankruptcy Board of India appoints Ms. Rekha Sharma, With registration number IBBI/IPA-003/IP-N00248/2019-20/12837 (email – rekhaip.vrsa@gmail.com) as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Respondent and specific consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons)

Regulations, 2016 within a period of one week from the date of this order.

15. We direct the Operational Creditors to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Gurpreet Singh to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

16. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

17. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-	sd/-
(HEMANT KUMAR SARANGI)	**(DR. DEEPTI MUKESH)**
MEMBER (T)	**MEMBER (J)**