BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) NO. 3442 OF 2019

APPLICATION BY OPERATIONAL CREDITOR TO INITIATE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

(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

Utratech Cement Limited
Having its registered office at:
Ahura Centre, B-Wing, 2nd Floor,
Mahakali Caves Road, Andheri (E),
Mumbai- 400093
...**Operational Creditor**

Versus

Schema Enterprises Private Limited.
Soham House, Hari Om Nagar, Off.
Eastern Express Highway, Mulund
(East), Mumbai 4400081
.... **Corporate Debtor**

Order delivered on: 10.08.2021

Coram: Hon'ble H.V. Subba Rao, Member (Judicial)
Hon'ble Chandra Bhan Singh, Member (Technical)

Appearance:

For the Petitioner: Ms. Khushboo Rohra i/b Sahil Mahajan

For the Respondent: None present

Per: Shri Chandra Bhan Singh, Member

ORDER

1. This Company Petition is filed by Ultratech Cement Limited, (hereinafter called "Operational Creditor") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Schema Enterprises Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the Operational Creditor in view of the invoices raised by them upon the Corporate Debtor, by invoking the provisions of Section 9 of Insolvency and Bankruptcy Code (hereinafter called the "Code") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Operational Creditor is a Company registered under the Companies Act, 1956. The Operational Creditor is doing business manufacturing and sale of various grades of Cements, Ready Mix Concrete, Building Products and Building Solutions.
3. During the routine course of business and as per Corporate Debtor's request and orders, the Operational Creditor had time to time supplied the material to the Corporate Debtor. The said material was duly received by the Corporate Debtor without raising any dispute and objection and for the same the Operational Creditor had issued the invoices upon Corporate Debtor.
4. As per the accounts maintained by the Operational Creditor, the Corporate Debtor failed and neglected to pay the amount of Rs. 5,37,883/- (Rupees Five Lakhs Thirty-Seven Thousand Eight Hundred and Eighty-Three only).
5. The Operational Creditor through its Advocate had issued Demand Notice dated 28.12.2018 under Insolvency and Bankruptcy Code, 2016 calling upon the Corporate Debtor to pay

the Operational Creditor a sum of Rs. 6,20,622/- comprising of n amount of Rs. 5,37,883/- being the amount of invoices and the amount of Rs. 82,739/- being the interest amount calculated @ 18% per annum from due date of the invoices till 27.12.2018 within ten days of receipt of the notice. The said notice was duly received by the Corporate Debtor on 31.12.2018.

6. The matter has been listed from time to time on board. Ample opportunity was given to the Corporate Debtor to file its reply. Not only the Corporate Debtor failed to file a reply but also failed to make representation before this Bench. Therefore, the Corporate Debtor was set ex-parte vide an order of this Bench dated 16.04.2021. Heard the counsel appearing for the Operational Creditor and perused the documents submitted by him. The counsel for the Operational Creditor successfully demonstrated and proved the existence of debt and default. The debt is within limitation. Thus, the Company Petition satisfies all the requirements for admission. Since the Corporate Debtor remained ex-parte even without filing any reply, the claim of the applicant remained unchallenged. This Tribunal upon considering the arguments of the Operational Creditor and the documents, pass the following:

ORDER

(a) The above Company Petition No. (IB) -3442(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Schema Enterprises Pvt. Ltd.

(b) Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the

Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Balaji Shrirang Sagar** (balajisagar381973@gmail.com), Insolvency Professional, Registration No: IBBI/IPA/IP-P01555/2018-2019/12441 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

(c) The Operational Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

(d) That this Bench hereby prohibits 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; 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.

(e) 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.

(f) 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.

(g) That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process 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.

(h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

(i) During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

(j) Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is allowed.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-	**Sd/-**
CHANDRA BHAN SINGH	**H.V. SUBBA RAO**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**