

**NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)  
(through web-based video conferencing platform)**

**CP (IB) No.211/Chd/Hry/2019**

**Under Section 9 of the Insolvency  
and Bankruptcy Code, 2016**

**In the matter of :**

**M/s Signify Innovations India Limited**

(Formerly known as M/s Philips Lighting India Ltd.)  
having its registered office at  
C/o Mangalam Business Centre,  
Block B, 6<sup>th</sup> Floor,  
Kolkata – 700016

Also at:

9<sup>th</sup> Floor, DLF -9B,  
DLF Cyber City, DLF Phase 3,  
Gurgaon-122002

...Petitioner-Operational Creditor

Versus

**M/s Eon Electric Limited**

having its registered office at  
House No.1048, Sector-14,  
Sonapat,  
Haryana – 131001

Also at:

Plot No.10, Sector-4,  
SIDCUL Haridwar,  
Uttarkhand-249403.

Also at:

B-88, Sector-83, Phase-II,  
Noida-201305.

...Respondent-Corporate Debtor



**Judgement delivered on: 13.10.2020**

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)  
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)**

**Present Through Video Conferencing:-**

For the Petitioner : Mr. Venacio D'Costa, Advocate  
For the Respondent : Mr. Shikhar Sarin, Advocate

**Per: Ajay Kumar Vatsavayi, Member (Judicial)**

**JUDGEMENT**

The instant petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, (for short hereinafter referred to as '**Code**') read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for short hereinafter referred to as '**Rules**') by M/s Signify Innovations Limited (**Petitioner-Operational Creditor**), through its Chief Financial Officer, Mr. Dibyendu Raychaudhury, for initiating Corporate Insolvency Resolution Process (**CIRP**) in the case of M/s Eon Electric Limited (**Corporate Debtor**). The Identification Number of the operational creditor as mentioned in Part-I of Form-5, is U74900WB2015PLC206100 and the registered address of its office is at House No.1048, Sector-14, Sonapat, Haryana – 131001. The petitioner-operational creditor has authorized Mr. Dibyendu Raychaudhury, Chief Financial Officer to file petition on its behalf. The copy of the Board Resolution dated 03.01.2019 passed by the Board of Directors of Operational Creditor is at Annexure-F of the petition. There is also an affidavit in support of the contents of the application is at pages 32 to 34 of the petition. The application has been filed in Form 5 as prescribed in Rule 6(1) of the Rules.

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2. M/s Eon Electric Limited (for short hereinafter referred to as the '**respondent**' and/or '**corporate debtor**') is a company incorporated under the provisions of Companies Act, 2013 with Authorised share capital of ₹12,50,00,000/- and paid up share capital of ₹8,45,12,330/-. The CIN of the respondent-corporate debtor is L31200HR1989PLC035580 and its registered office is situated in Sonapat in the State of Haryana and therefore, the matter falls within the territorial jurisdiction of this Tribunal. Copy of the master data of the respondent-corporate debtor is at Annexure-B of the petition.

3. The facts of the case, briefly, as stated in the petition, are that the petitioner-operational creditor is engaged in the business of lighting products. The Corporate Debtor has placed various purchase orders for the supply of products as detailed in the purchase orders. Accordingly, operational creditor raised various tax invoices from time to time. Copy of various purchase orders and tax invoices are attached as Annexure-J (Colly) and Annexure-K of the petition, respectively. It is submitted that said orders were duly received by the Corporate Debtor to its complete satisfaction and the Corporate Debtor is required to pay the amount against the invoices within 120 days towards discharge of legally enforceable debt and liability. The Corporate Debtor issued 4 (four) cheques towards payment of legal debt amounting to ₹72,46,410/-. True copies of cheques are attached as Annexure-L of the petition. The said cheques were presented by the Operational Creditor with its banker which were dishonoured due to "insufficient funds". Thereafter, the Operational Creditor issued legal notice dated 27.11.2018 under Section 138 of the Negotiable Instruments Act, 1981. The true copy of Return Memos and Legal Notice dated 27.11.2018 are attached as Annexure-M and Annexure-N of the paper book.

4. A demand notice in Form No.3 is stated to be issued on 13.12.2018 (Annexure-R of the petition). The demand notice was accompanied by the copy of various purchase orders, Tax invoices, Cheques Return Memo along with Legal Notice issued under Section 138 of the Negotiable Instruments Act and tracking reports to substantiate the said date of default. The corporate debtor vide this demand notice was called upon to repay the total unpaid operational debt (in default) of ₹78,41,943/- (Rupees Seventy-Eight Lakhs forty-one thousand nine hundred and forty-three only) within 10 days from the receipt of the notice. Copy of the e-mails, postal receipt and tracking report are appended as Annexure- S, Annexure-T and Annexure-U, respectively of the paper book.

5. It is deposed by the Operational Creditor that after sending of the demand notice dated 13.12.2018, the corporate debtor did not raise any dispute within the stipulated time or up to the date of filing this petition and did not raise any dispute qua the outstanding amount. It is also deposed that there is no dispute pending or arose by the corporate debtor qua the outstanding amount even prior to the sending of the statutory demand notice dated 13.12.2018. The affidavit is appended with the petition at pages 34A to 34C.

6. It is submitted that the respondent-corporate debtor failed to comply with the demand notice dated 13.12.2018 nor made any outstanding payment and hence this petition.

7. In Part III of Form 5, the operational creditor has proposed Mr. Vishva Deep Sharma, bearing Registration No.IBBI/IPA-001/IP-P01017/2017-2018/11668 as the Interim Resolution Professional. The consent of the proposed IRP is furnished in Form No. 2 dated 25.02.2019 is appended as as

Annexure-G (Page 91 to 93) of the petition in which he has stated that he is not currently serving as an Interim Resolution Professional in any of the proceedings. It is also stated that there are no disciplinary proceedings pending against the proposed Interim Resolution Professional with the Insolvency and Bankruptcy Board of India or with the Institute of Insolvency Professionals of ICSI.

8. Notice of this petition was issued to the Corporate Debtor on 23.05.2019 to show cause as to why this petition be not admitted.

9. On the last date of hearing, the learned counsel on behalf of the respondent submitted that the Corporate Debtor has no objection, if CP is admitted as Corporate Debtor is not in a position to pay the outstanding dues of the petitioner as well as of various others.

10. We have heard the learned counsel for the corporate debtor and operational creditor and have also perused the records.

11. The first issue for consideration is whether the demand notice in Form No.3 dated 13.12.2018 was properly served. The demand notice dated 13.12.2018 was sent to the Corporate Debtor vide e-mail as well as by speed post, courier and registered A/D post. Copy of demand notice, e-mail, postal receipts and tracking reports are attached as Annexure-R, Annexure-S (Colly), Annexure-T and Annexure-U, respectively of the petition. It is submitted that the Corporate Debtor has chosen not to reply to the demand notice dated 13.12.2018.

12. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. The respondent corporate debtor has

filed reply dated 09.01.2020 to the petition. However, it is also observed that on the last date of hearing, learned counsel for the respondent has admitted its liability and submitted that the CP may be admitted.

13. The provisions of Section 9(5)(i) of the Code are as follows: -

*“(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—*

- (i) admit the application and communicate such decision to the operational creditor and the corporate debtor if,—*
  - (a) the application made under sub-section (2) is complete;*
  - (b) there is no payment of the unpaid operational debt;*
  - (c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;*
  - (d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and*
  - (e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.”*

14. The Hon'ble Supreme Court in ***Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited, (2018) 1 SCC 353, Civil Appeal No. 9405 of 2017***, held as under:-

*“51. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(ii)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice*

*must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application."*

15. We have gone through the contents of the application filed in Form No.5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of ₹78,41,943/- (Rupees seventy eight Lakhs forty one thousand nine hundred forty three only). (Principal amount of ₹72,76,410 and interest @ 18% thereon of ₹5,65,533). Copy of working of computation of amount along with days of default and chart showing invoice date, due date of payment and calculation of interest is attached as Annexure-H and Annexure-Q, respectively of the petition. The copy of purchase orders and tax invoices have been filed at Annexure-J & Annexure-K of the petition. Copy of Bank Statement of Operational Creditor has been filed as Annexure-I. Moreover, demand notice in Form No.3 was also sent on 13.12.2018 stating that the amount due from the corporate debtor to the operational creditor is ₹78,41,943/- (including Principal amount of ₹72,76,410/- + interest @18% thereon of ₹5,65, 533/- till 12.11.2018 respective due date of invoices). As a statutory requirement under Section 9(3)(b) of the Code, an affidavit dated 11.04.2019 (at pages 34A to 34C of the petition) has been placed by the operational creditor stating that demand notice issued on 13.12.2018 by courier,

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speed post and e-mail. It is also stated that after sending statutory demand notice dated 13.12.2018, there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt. We have held above that the demand notice in Form No.3 was properly delivered by the Operational Creditor and no pre-existing dispute is proved.

16. It has been shown that the corporate debtor has failed to make payment of the ₹78,41,943/- as due till 12.11.2018. It is also observed that the conditions under Section 9 of the Code stand satisfied. Accordingly, the petitioner proved the default of debt, which is more than ₹1 lac by the respondent-corporate debtor Hence, it is clear from the above mentioned fact that the liability of the respondent-corporate debtor is undisputed.

17. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIRP process in the case of the Corporate Debtor M/s Eon Electric Limited and direct moratorium and appointment of Interim Resolution Professional as below.

18. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Securitization and Reconstruction of Operational 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.

19. It is further directed that 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. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

20. The order of moratorium shall have effect from the date of this order till 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.

21. The Law Research Associate of this Tribunal has checked the credentials of Mr. Vishva Deep Sharma and there is nothing adverse against him. In view of the above, we appoint Mr. Vishva Deep Sharma, Registration No. IBBI/IPA-001/IP-P01017/2017-2018/11668, R/o #G/4, Ground Floor, East Patel Nagar, New Delhi – 110018, E-mail: [vcdecco@yahoo.co.in](mailto:vcdecco@yahoo.co.in), as the Interim Resolution Professional with the following directions: -

- i.) The term of appointment of Mr. Vishva Deep Sharma shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;
- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his

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profession and as an Insolvency Professional with high standards of ethics and moral;

- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- vi.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall

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convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

- vii.) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his email address forthwith.

Sd/-

(Raghu Nayyar)  
Member (Technical)

October 13, 2020.  
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Sd/-

(Ajay Kumar Vatsavayi)  
Member (Judicial)

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