



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**HYDERABAD BENCH - II**

**CP(IB) No.64/09/HDB/2023**  
**U/s. 9 of IB Code, 2016**

**In the matter of:**

M/s. GP Petroleums Limited,  
804, 8<sup>th</sup> Floor, Ackruti Star,  
MIDC Central Road, MIDC,  
Andheri (East),  
Mumbai – 400 093.

....Operational Creditor

Vs

M/s. Tirumala Hills Asphalt Pvt. Ltd.,  
Flat No.04, H.No.5-8-29,  
4<sup>th</sup> Floor, Lakshmi Sai Nilayam,  
Fathe Sultan Lane,  
Hyderabad – 500 001.

....Corporate Debtor

**Date of order: 14.06.2023**

**CORAM:**

Hon'ble Justice Smt. Telaprolu Rajani, Member (Judicial)

Hon'ble Sri Charan Singh, Member (Technical)

**Counsels present:**

For the Operational Creditor : Mr. T.V. Narasimha Rao, Advocate

For the Corporate Debtor : None

Heard on : 12.06.2023



**[PER: BENCH]**

1. This application is filed by the Petitioner M/s. GP Petroleums Limited, Operational Creditor (OC) against the Respondent M/s. Tirumala Hills Asphalat Pvt. Ltd, Corporate Debtor (CD), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor for committing default in discharging of the debt due to the Operational Creditor which is Rs.2,02,81,093/- plus interest.
2. Facts briefly, as set out in the application, are as follows:
  - a. The relationship between the CD and the OC started during October, 2021. The OC used to supply Bitumen VG 30 to the CD. Pricing was based on the market price prevailing on the date of invoice. No claim for shortfall of quantity/quality was ever made by the CD, to the notice of OC, within 24 hours of delivery, as required according to the terms of the invoice. Items were supplied to Ananthapur/Hyderabad divisions of the CD based on CD's requirement.
  - b. During the period from October, 2021 to July, 2022, a total of 104 invoices to Ananthapur Division + 7 invoices to Hyderabad Division were raised by the OC against the CD, aggregating to



Rs.13,42,94,512/-. The CD made payments from time to time till 07.09.2022 to the tune of Rs.11,40,13,419/-and an amount of Rs.2,02,81,093/- is pending for payment towards cost of supplies. Invoices have credit period of 15 days. The CD failed to pay part of the Invoice dated 31.05.2022 which fell due on 15.06.2022 in addition to all the subsequent invoices aggregating to Rs.2,02,81,093/-. Along with interest, the total amount accrued to Rs.2,23,28,293/-. The interest as agreed is @24% per annum.

- c. The CD vide emails dated 18.11.2022 and 04.02.2023 admitted the debt to the OC, but did not discharge the same. The OC issued Demand Notice for which, there is no reply. Hence, this application.
3. The CD remained ex-parte inspite of service of Notice. Heard the Counsel for the Petitioner.
4. The Counsel for the Petitioner submits that the CD failed to discharge the debt which was due to the OC to an extent of Rs.2,23,28,293/- which includes an interest @24% p.a. He draws our attention to the Invoices wherein, the rate of interest @24% p.a. is stipulated. He also draws our attention to the emails sent by the CD wherein, it is mentioned that “their



customers were supposed to get the bills by the end of January and accordingly, they made a commitment to make the payment to the OC on 31<sup>st</sup> December. But, since their customers still did not get the bills, he could not stand by his word. It is further stated that now their government is releasing the payment and their customers will get their bills this week and would pay the payment on 9<sup>th</sup> February and thereafter continue the business as before.” The said mail is dated 04.02.2023 which is just prior to the filing of this application.

5. Hence, it is evident that the debt is admitted by the CD. A Demand Notice was sent by the Petitioner on 19.12.2022 for which there was no reply. Hence, considering that there is a debt and default committed by the CD, we allow the application as prayed for, with the following directions.

### **ORDER**

- a) The Application is admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.



- b) The Applicant has proposed the name of Mr. Adinarayana Babji Kota as the Interim Resolution Professional (hereinafter referred to as the "IRP"). Accordingly, this Adjudicating Authority appoints Mr. Adinarayana Babji Kota, Registration Number of IP : IBBI/IPA-001/IP-P00850/2017-2018/11433, #3-1-211 Upstairs, Somasundaram Street, West Marredpally, Secunderabad – 500 003, E-mail ID: [kotababji@gmail.com](mailto:kotababji@gmail.com) as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.
- c) The IRP is directed to take charge of the management of the Corporate Debtor, immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Code, 2016, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.
- d) Moratorium is, hereby, declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:
- i. 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 or law, tribunal arbitration panel or other authority;



- ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;
  - iii. 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 (54 of 2002);
  - iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
  - v. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.
- e) The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any



goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

- f) The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code, 2106. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 for discharging his functions under Section 20 of the Code, 2016.
- g) The Corporate Applicant as well as the Registry is directed to send the copy of this Order to the IRP, to enable him to take charge of the assets etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.
- h) The Registry is directed to communicate this Order to the Corporate Applicant.



- i) The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor in the website of the Ministry of Corporate Affairs.
6. Accordingly, this **CP(IB) No. 64/9/HDB/2023** is allowed.

**Sd/-**

**(CHARAN SINGH)  
MEMBER (TECHNICAL)**

**Sd/-**

**(JUSTICE TELAPROLU RAJANI)  
MEMBER (JUDICIAL)**

**VL**