

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 1**

ITEM No 127  
CP(IB) 61 of 2019

**Order under Section 9 IBC**

**IN THE MATTER OF:**  
BVC Tradeport Pvt Ltd  
V/s  
Salebhai Internet Ltd

.....Applicant  
.....Respondent

**Order delivered on ..08/12/2021**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Ajai Das Mehrotra, Hon'ble Member(T)

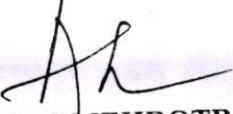
**PRESENT:**

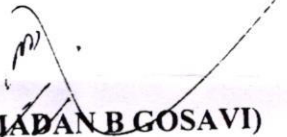
For the Applicant :  
For the IRP/RP :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

  
(AJAI DAS MEHROTRA )  
MEMBER (TECHNICAL)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

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**BEFORE THE ADJUDICATING AUTHORITY  
IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
COURT-1**

**CP(IB) 61 of 2019**

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

**IN THE MATTER OF:**

**BVC Tradeport Private Limited**  
1102, Solitaire Corporate Park  
16, Hargovindji Marg  
Chakala, Andheri East  
Mumbai-400093

**Applicant**

**Versus**

**Salebhai Internet Limited**  
307-A, C/O Safal Pegashis  
Opp. Kiran Motors,  
100ft Road  
Opp. Rivera Bungalows,  
Prahalad Nagar, Vejalpur  
Ahmedabad-380015

**Respondent**

**Order Reserved on: 15/11/2021  
Order Pronounced on: 08/12/2021**

**Coram: M.B. Gosavi, Member (J)  
Ajai Das Mehrotra, Member (T)**

**Appearance:**

For the Applicant: Ld. Adv Mr. Urjit Dave  
For the Respondent: Ld. Adv Mr. U R Bhatt



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*Urjit Dave*


**ORDER****[Per Bench]**

1. This application has been filed by BVC Tradeport Private Limited, the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **IBC, 2016**) for initiation of Corporate Insolvency Resolution Process (**CIRP**) against the Corporate Debtor viz. Salebhai Internet Limited. The amount of claimed debt in default including interest & legal cost is Rs.7,00,297/- (Rupees Seven Lakh Two Hundred Ninety Seven Only).
2. The facts, in brief, are that the Operational Creditor is into the business of selling outsourced logistic services through its website www.vamaship.com. The Corporate Debtor is an E-commerce portal offering sweets, dry fruits, paintings, handicrafts, chocolates, herbal products and puja items across India. The Corporate Debtor entered into service agreement with the Operational Creditor on 31.08.2016, for availing the logistic services of the Operational Creditor, i.e. for delivering the products to the customers of the Corporate Debtor through the vendors of the Operational Creditor situated at different locations in India.




3. It is submitted by the Operational Creditor that the Corporate Debtor has availed the logistic services of the Operational Creditor, however, the Corporate Debtor failed to pay the outstanding amount, against which the Operational Creditor has time and again reminded the Corporate Debtor to clear the outstanding dues. It is further submitted by the Operational Creditor that the Operational Creditor had sent a letter to the Corporate Debtor on 30.11.2017 claiming Rs.6,23,134.30/- to which the Corporate Debtor agreed to pay the outstanding dues by 06.12.2017. However, the Corporate Debtor paid only Rs.2,00,000/- out of the total outstanding amount and therefore, the Operational Creditor sent another notice dated 15.12.2017 to the Corporate Debtor claiming the balance outstanding amount for the invoices till October, 2017 of Rs.4,22,819.80/-.

4. It is submitted by the Operational Creditor that the Operational Creditor further, through notices and e-mails, claimed the outstanding amount from the Corporate Debtor. Thereafter, the Corporate Debtor through its e-mail dated 03.01.2018, admitted its liability stating that the amount payable to the Operational Creditor after all the deductions for

  
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lost cases, damaged cases, wrong deliveries and delivery beyond 8 days is Rs.2,94,208/-.

5. It is submitted by the Operational Creditor that the cumulative amount outstanding till 06.12.2017 was Rs.4,22,819/- and further three invoices dated 11.12.2017, 10.01.2018 and 12.03.2018 were issued to the Corporate Debtor aggregating to Rs.2,21,415.20/-. It is further submitted by the Operational Creditor that the Corporate Debtor on 17.01.2018 paid Rs.1,00,000/- out of the total undisputed and admitted outstanding dues of Rs.2,94,208/- as admitted through email dated 03.01.2018.
6. The Operational Creditor further submitted that after sending several notices and e-mails to the Corporate Debtor claiming the outstanding amount, the Operational Creditor sent the Demand Notice on 25.07.2018 in Form 3 under Section 8(1) of the IBC, 2016 claiming Rs.7,00,297/- (Rupees Seven Lakh Two Hundred Ninety Seven) which included principal amount, interest and legal cost of Rs.3,44,845/-, Rs.1,55,453/- and Rs.2,00,000/- respectively, which was delivered at the registered address of the Corporate Debtor by Blue Dart. The Corporate Debtor replied to the demand notice.



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7. It is submitted by the Operational Creditor that the Corporate Debtor in its reply dated 21.08.2018, to the Demand Notice, which is not as per Section 8(2) of the IBC, 2016, claimed from the Operational Creditor Rs.5,00,00,000/- for the losses incurred by the Corporate Debtor due to mis-deliveries, highly delayed deliveries, return to owners from whom the courier was collected, etc, which is based on spurious defence as per the averments of the Operational Creditor.
8. It is submitted by the Corporate Debtor that the Operational Creditor sent anonymous letters, mails, messages to the various vendors and parties of the Corporate Debtor claiming that the Corporate Debtor has gone bankrupt etc and to stop business with the Corporate Debtor. It is further submitted by the Corporate Debtor that the actual outstanding amount payable to the Operational Creditor is Rs.1,94,208/- and the deduction and claimed amount is for the delayed deliveries, damage caused to the parcels containing food items because of which the customers of the Corporate Debtor rejected and for the damages caused to the Corporate Debtor due to the unethical moves of the Operational Creditor.



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9. It is submitted by the Corporate Debtor that the Adjudicating Authority vide order dated 25.09.2019 adjourned the matter to the other date on the ground that the settlement was going on between the Corporate Debtor and the Operational Creditor. It is further submitted by the Corporate Debtor that in order to make settlement the Corporate Debtor sent an e-mail to the Operational Creditor for the payment of the outstanding dues of the Operational Creditor subject to the payment of Rs.1,35,180.10 by the Operational Creditor to the Corporate Debtor for non-delivery, returns etc.
10. It is submitted by the Corporate Debtor that the claimed amount of the Operational Creditor is Rs.346286.49, whereas, the amount claimed by the Corporate Debtor for the loss and damages, from the Operational Creditor is Rs.16,63,861/- and therefore, net payable from Operational Creditor to the Corporate Debtor is Rs.13,17,574.51/-.
11. Heard the Learned Counsel for the Operational Creditor and the Corporate Debtor and perused the material on record, on this basis it appears that:

A. The total invoice amount claimed by the Operational Creditor was Rs.6,23,134.30/-



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against which the Corporate Debtor paid Rs.2,00,000/- and out of the balance amount of Rs.4,23,134/-, the Corporate Debtor through email dated 03.01.2018 admitted to pay Rs.2,94,208/- after all the deductions for lost cases, damaged cases, wrong deliveries and delayed delivery and further paid Rs.1,00,000/- and through email dated 17.01.2018 assured to pay the balance undisputed amount of Rs.1,94,208/-.

B. The Demand Notice under Section 8 of the IBC, 2016 was sent by the Operational Creditor on 25.07.2018 to which the Corporate Debtor replied on 21.08.2018, which is beyond 10 days as given under Section 8 of the IBC, 2016. The Corporate Debtor through email dated 03.01.2018 admitted the claim of Rs.2,94,208/- stating that the balance outstanding amount is the deduction for the loss and damage caused to the Corporate Debtor. However, the Corporate Debtor raised dispute when the Demand Notice was sent by the



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*[Handwritten signature]*

Operational Creditor.

C. The Corporate Debtor accepted and admitted the dues for an amount of Rs.1,94,208/- (Rupees one lakh ninety four thousand two hundred and eight). Hence, the claim of the Operational Creditor is accepted & admitted by the Corporate Debtor. The default amount meets the threshold limit as per Section 4 of the IB Code, 2016 and is well within the limitation for filing the present application.

D. In the view of facts, it is clear that Corporate Debtor has defaulted in the payment of its debts. On the basis of the facts the application is otherwise defect free & on record. Accordingly, we admit this application and order as under:

### ORDER

I. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

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;*



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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 Securitisation and Reconstruction of Financial 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.*

- II.** The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under subsection (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the IBC, 2016, as the case may be.
- III.** The Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP), which is not mandatory under Section 9 of the IBC, 2016. Therefore, this Adjudicating Authority hereby appoints **Mr. Krunal Ramanbhai Tanna having registration No. IBBI/IPA-001/IP-P01949/2020-2021/13064,** e-mail **krunaltanna.ip@yahoo.com** to act as an IRP under Section 13(1) (c) of the IBC, 2016.
- IV.** The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with



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*[Signature]*  
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Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate. IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- V. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.
- VI. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- VII. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs. 25000/- (Rupees Twenty Five Thousand Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth



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conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report within 30 days.

**VIII.** The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.

**12.** Accordingly, CP(IB) 61 of 2019 is allowed.



**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**



**MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

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Certified to be True Copy of the Original

  
Joint Registrar  
NCLT, Ahmedabad Bench  
Ahmedabad

