

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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**TCP (IB) No. 38/9/AMR/2019
CP (IB) No. 514/9/HDB/2019**

In the matter of NS Vaishno Devi Developers India Private Limited

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Dated 20th May, 2020

The regular court proceedings have been suspended/closed as per Notice dated 22.03.2020 of NCLT, Principal Bench and subsequent follow up orders due to the COVID-19 pandemic. The order in this case is ready. Counsel for the parties are present in the Video Conference (VC). Order is pronounced through VC. The TCP (IB) No. 38/9/AMR/2019 is admitted as per separate sheets.

Upload the same onto the NCLT website. A copy of the order may also be sent to the Registrar, NCLT as per Circular dated 14.04.2020 for necessary action at his end.


MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

*** **

**TCP (IB) No. 38/9/AMR/2019
[CP (IB) No. 514/9/HDB/2019]**

**In the matter of a Petition under Section 9 of the
Insolvency and Bankruptcy Code, 2016
and**

In the matter of N. S. Vaishno Devi Developers India Pvt Limited

Between

Madras Steels & Tubes
Megh Synergy No. 45 (Old No. 21),
Halls Road, Kilpauk,
Chennai – 600 010,
Tamilnadu.

... Petitioner

and

N. S. Vaishno Devi Developers India Private Limited
15-11-16, Mangalagiri Road,
Beside Vasavi Cloth Market,
Gurtur - 522 001,
Andhra Pradesh.

... Respondent

Date of Order: 20.05.2020

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Appearance:

For Petitioner: Mr. J. Govardhan Reddy and Mr. MD. Raheem, Advocates

For Respondent: *Ex parte.*

ORDER

This is an Application under section 9 of Insolvency & Bankruptcy Code (the Code) seeking Corporate Insolvency Resolution Process (CIRP) of the Respondent Company for default in payment of an operational debt.

2. The Petitioner, a Proprietorship Firm based in Chennai, is the supplier and trader in GI pipes, MS pipes and ERW pipes etc. The Respondent is a Private

Limited Company (CIN: U45400AP2015PTC096192) with its Registered Office at Visakhapatnam, Andhra Pradesh involved in construction business. The Petitioner had supplied MS Sections to the Respondent as per order placed. The goods were received and accepted by the Respondent from time to time. There has been no dispute relating to the quantity or quality of goods. The Petitioner issued invoices No. 569 and 570 dated 07.09.2016 for Rs.3,92,761 and Rs. 4,56,960/- respectively totalling Rs. 8,49,721/-. The Respondent failed to make the payment despite several reminders. For such failure the Respondent is liable to pay interest @ 18% per annum amounting to Rs. 3,75,879/- on the outstanding dues. The total amount outstanding thus comes to Rs. 12,25,600/-. The Petitioner issued the Demand Notice dated 25.03.2019 under section 8 of the Code in Form-3 along with Form 4 and sent it by speed post on 25.03.2019. It was delivered to the Respondent on 29.03.2019 as per the postal tracking report. A copy of the Demand Notice was also sent by email. They were not responded to.

3. The respondent didn't make any payment as the Account Statement from 01.03.2019 to 19.04.2019 of Bank of the Petitioner (State Bank of India), where credits are normally received by the Petitioner in respect of the Respondent, would indicate.
4. Hence the Petitioner came up with the Petition on 24.06.2019 before the NCLT, Hyderabad Bench. It was transferred to this Bench upon its establishment.
5. The Petitioner served notice on the Respondent through speed post on 06.09.2019 and the same was delivered to the Respondent on 09.09.2019. None appeared for the Respondent when it was called on 14.11.2019 for hearing and the Respondent was set *ex parte*.
6. Heard the counsel for the Petitioner. Materials available on record clearly indicate that the petitioner had supplied goods to the Respondent in due course of business. It had raised two invoices on 07.09.2016 for Rs. 3,92,761/- and Rs. 4,56,960/- totalling Rs. 8,49,721/-. The Respondent didn't reply to the

Demand Notice. It neither made the payment nor appeared before this Authority when noticed. It was thus in default in payment of an operational debt.

7. From these materials it would appear that the Respondent owed an operational debt of Rs. 8,49,721/- to the Petitioner. Despite notice it defaulted in making the payment as promised. The Respondent has neither sent any notice of dispute nor shown any record of dispute as to the debt. The default interest amount of Rs. 3,75,879/- claimed can be acceded to the same being a part of the invoices. The petitioner has proposed Mr. Immaneni Eswara Rao of Vijayawada as the Interim Resolution Professional (IRP). He has furnished his consent in Form No. 2. No disciplinary proceeding is pending against him as per the IBBI website. The Petition is otherwise complete. It thus needs to be admitted. Hence ordered.

ORDER

The Company Petition is admitted *ex parte*. The Corporate Insolvency Resolution Process of the Respondent shall commence from this date and shall be completed within 180 days hence.

- i. Shri Immaneni Eswara Rao, (Registration No. IBBI/IPA-001/IP-P01224/2018-2019/11943), having office at 40-26-22, Mohiddin Street, Opp. BSNL Exchange, Labbipeta, MG Road, Vijayawada, Andhra Pradesh – 520 010; e-mail: ier_ca@outlook.com; Mobile: 9248123333 is appointed as the Interim Resolution Professional.
- ii. He is directed to take charge of the Respondent/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.
- iii. Moratorium in respect of the Respondent is hereby declared under Section 14 of the Code.

- iv. The Directors, Promoters or any other person(s) associated with the management of Respondent (Corporate Debtor) shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effective discharge of his functions under the Code.
- v. The Registry shall communicate the order to the Petitioner and the Respondent forthwith.
- vi. The Petitioner/OC and the Registry shall send the copy of this order to IRP for necessary compliance.


**MOHAMMED AJMAL
MEMBER JUDICIAL**