**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**BENGALURU BENCH**

C.P. (IB)No.157/BB/2018
U/s. 9 of the IBC, 2016
R/w Rule 6 of the I&B (AAA) Rules, 2016

**In the matter of:**

**Mr. Rang Emei Gonmei**
Sole Proprietor
Helix Healthcare Architecture
F-1, MILAP Nagar,
New Delhi – 110 059 - Petitioner/Operational Creditor

**Versus**

**M/s. Aditazz Design Technologies Private Limited**
No. 89, Ground Floor,
16 A Main, 7th Cross,
4th B Block, Koramangala
Bengaluru – 560 034 - Respondent/Corporate Debtor

**Date of Order: 28th August, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Petitioner : Shri Naveen Kumar
For the Respondent : None

**O R D E R**

**Per:** Rajeswara Rao Vittanala, Member (Judicial)

1. C.P.(IB)No.157/BB/2018 is filed by Mr. Rang Emei Gonmei, Sole Proprietor Helix Healthcare Architecture (Petitioner/Operational

Creditor) U/s. 9 of IBC, 2016, R/w Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter-alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Aditazz Design Technologies Private Limited (Bangalore) Private Limited (Respondent/ Corporate Debtor) on the ground that the Corporate Debtor has committed, default for total an amount of Rs.3,71,86,040/- (Rupees Three Crores Seventy One Lakhs Eighty Six Thousand Forty only) which includes principal amount and interest.

2. Brief facts of the case, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:

(1) Mr. Rang Emei Gonmei, Sole Proprietor Helix Healthcare Architecture (herein after referred as Petitioner/Operational Creditor) has been into the Business of providing Architectural Design and Interior Designing Consultancy Services for Healthcare Industry.

(2) M/s. Aditazz Design Technologies Private Limited (Respondent/Corporate Debtor) is a Company incorporated under Companies Act, 2013 having Registered office at Bengaluru and has been into the Business of providing IT Software Design Consultancy Services for Health Facility Buildings, including Conceptual Architectural Planning Services for the Healthcare Sector.

(3) The Corporate Debtor approached the Operational Creditor in the month of October 2017 to avail the Architectural Design Consultancy Services of the Operational Creditor and awarded the Contract of Architectural Design Consultancy Services through various Agreement, Email instructions.

(4) The Operational Creditor fulfilled all the deliverables as per written Agreement/Email Institutions and also raised various invoices to the Corporate Debtor during the Period. Whereas the Corporate Debtor used to make Running Payments/Adhoc Payments to the Operational Creditor they had done numerous follow-ups verbatim, Email and via personal visits to the Corporate office of the Corporate Debtor with regard to the payment of Outstanding Invoices but did not get any relief from the Corporate Debtor. Subsequently, issued a demand notice under the provisions of the Code to the Respondent/Corporate Debtor on 5th June 2018 for the payment of amount in default, the Demand Notice was delivered to the Registered office of the Corporate Debtor through Speed Post (Tacking No. ED784656702IN on 07.06.2018 and to the Senior Management of the Corporate Debtor through Email on13.06.2018.

(5) The Operational Creditor has received a reply dated 20th June, 2018 from the Directors of the Respondent Company in their individual capacity tendering certain submission in response to the Demand Notice disclaiming their connections/relationship with the Respondent Company/ Corporate Debtor which are far-fetched, beyond logical comprehension, frivolous, made out and concocted just to evade the liability to pay the demanded Operational Debt. There are submissions made which in no way pertain to subject in question i.e. Payment of Unpaid Operational Debt and hence it was quite apparent that the reply was given to misuse the Provisions of the IBC 2016, by making

submissions which are far from comprehension and does not pertain to payment of Unpaid Operational Debt as demanded in the Demand Notice and there are no suit or arbitration proceedings before any court or authority prior to the date of serving Demand Notice to the Respondent.

3. Heard Shri Naveen Kumar, learned Counsel for Petitioner and none appeared for the Respondent, even though notice as ordered by this Adjudicating Authority, and the learned Counsel for the Petitioner has served notice to the Respondent.

4. The case is listed for admission on various dates viz, 14.09.2018, 10.10.2018, 19.11.2018, 06.12.2018, 03.01.2019, 29.01.2019, 18.02.2019, 20.03.2019, 23.04.2019, 01.05.2019, 28.05.2019, 12.06.2019, 25.06.2019, 07.08.2019, 13.08.2019 and 28.08.2019 to give opportunity to the Respondents. However, the Respondents failed to avail the opportunities given.

5. Shri Naveen Kumar, learned Counsel for the Petitioner/ Operational Creditor, while pointing out the various averments as mentioned in the instant Company Petition, as mentioned supra, has further submitted that there is an admitted debt and default and same is not in dispute and due notice was issued by the them, it was also not responded and instant Petition is also not opposed by the Respondent And a qualified Resolution Professional namely Shri Basavaraj M Salimath, bearing Registration No. IBBI/IPA-002/IP-N00800/2019-20/12692 is proposed to appoint him as Interim Resolution Professional, who has filed Written Communication dated 16.08.2019, in a prescribed forum. Therefore, the learned Counsel urged the

Adjudicating Authority to admit the instant Company Petition by initiating CIRP as prayed for.

6. Mr. Rang Emei Gonmei, Sole Proprietor Helix Healthcare Architecture, has filed an Affidavit dated 27.06.2018, by inter alia stating that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid Operational Debt as on the date of signing of this affidavit and only received a reply from one of the Directors of the Respondent Company, in their individual capacity tendering certain submissions in response to the demand notice disclaiming their connection/relationship with the Respondent Company, which are far-fetched, beyond logical comprehension, frivolous, made out and concocted just to evade the liability to pay the demanded Operational Debt etc.

7. Shri A. V. Sundararaman, one of the Partner of the Respondent/Corporate Debtor Company has filed a reply dated 20.06.2018, by inter alia contending that he was wholly unaware of the nature of transaction made by the Company. The inclusion of the Directors names, that too a Non-Executive Director', who resigned from his post as on 02.03.2018, is wholly contrary to the provisions of the Code.

8. By perusal of the Application/Petition and the documents filed in support of the Application/Petition, it is found that the instant Company Petition is filed in accordance with law and the Corporate Debtor has not paid the debt due and Shri Basavaraj M Salimath, bearing IP Regn. No. IBBI/IPA-002/IP-N00800/ 2019-2020/12692 has filed his Written consent in Form 2 dated 16.08.2019, under Rule 9 of I&B(AAA) Rules, 2016, by inter

declaring that he is eligible to be appointed as a Resolution Professional in respect of the Corporate Debtor and that there are no disciplinary proceedings are pending against him with the Board or ICAI; he is currently not serving as an Interim Resolution Professional/Resolution Professional in any Proceedings.

Therefore, we are satisfied that the debt and default in question are established and the IRP suggested is prima facie eligible to be appointed as such and thus it is a fit case to admit the case by initiating CIRP, imposing moratorium etc.

9. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority, U/s 9(5)(i) and other extant provisions of the IBC, 2016, the following orders are passed:

(1) C.P.(IB)No.157/BB/2018 is hereby admitted by initiating Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Aditazz Design Technologies Private Limited, Corporate Debtor;

(2) Shri Basavaraj M Salimath, bearing IP Regn. No. IBBI/IPA-002/IP-N00800/2019-2020/12692, who is qualified Resolution Professional, is hereby appointed as Interim Resolution Professional, in respect of the Corporate Debtor to carry on the functions as mentioned under the Insolvency and Bankruptcy Code, 2016 and various rules issued by IBBI from time to time;

(3) The following moratorium is declared prohibiting all of the following, namely:

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 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;

e) 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;

f) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator as also not applicable to surety.

g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;

h) The IRP should follow all extant provisions of IBC, 2016 and the rules including fees rules as framed by IBBI.

The IRP is hereby directed to file his report in the Adjudicating Authority from time to time.

(4) The Board of Directors and all the staff of Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.

(5) IRP is further directed to strictly adhere time schedule as mentioned under the Code. And he is directed to file progress reports from time to time to the Adjudicating Authority.

(6) Post the case for submission of report of the IRP on **01.10.2019.**

**(ASHOK KUMAR MISHRA)**
**MEMBER, TECHNICAL**

**(RAJESWARA RAO VITTANALA)**
**MEMBER, JUDICIAL**

Shruthi