

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH - V**

**Company Petition (IB) No. 205/ND/2020**

**In the matter of:**

**Sections 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016**

**AND**

**In the matter of :**

**SUNMAN CORPORATE SERVICES PRIVATE LIMITED**

Through its Director Sh. Manoj Malhotra

Having registered office at:

G-47, Vardhaman Diamond Plaza,

D.B. Gupta Road, Pahar Ganj,

New Delhi-110055

**...Applicant/Operational Creditor**

Versus

**PEREGRINE INDIA LOGIX PRIVATE LIMITED**

Having registered office at:

310, T/F Sachdeva Corporate Tower,

Comm. Centre, Karkardooma, East Delhi,

New Delhi-110092

**...Respondent/Corporate Debtor**

**ORDER DELIVERED ON: 21.02.2022**

**CORAM :**

Sh. Abni Ranjan Kumar Sinha, Hon'ble Member (Judicial)

Sh. Avinash K. Srivastava, Hon'ble Member (Technical)

**PRESENT: -**

**For the Applicant:** Advocate Samiksha Goswami



**ORDER****AS PER: SH. ABNI RANJAN KUMAR SINHA, MEMBER, JUDICIAL**

1. The present petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 by the Applicant/ operational creditor, i.e. **“Sunman Corporate Services Private Limited”** for initiation of Corporate Insolvency Resolution Process against the Respondent/ Corporate Debtor Company **“Peregrine India Logix Private Limited”**.

2. Brief Facts of the case are as follows:

- i.** The Operational Creditor provides logistics support to the Corporate Debtor. It is submitted that for the same, the Operational Creditor has raised the invoices from time to time and same is due and pay.
- ii.** The details of the outstanding principal amount are provided hereunder:
  - a.** Being balance outstanding amount of Rs. 25,715/- which remains unpaid in respect of the Invoice No. 267 dated 16.10.2018. The amount became due with effect from 16.10.2018.
  - b.** Being balance outstanding amount of Rs. 43,044/- which remains unpaid in respect of the Invoice No. 307 dated 01.11.2018. The amount became due with effect from 01.11.2018.
  - c.** Being balance outstanding amount of Rs. 70,318/- which remains unpaid in respect of the Invoice No. 343 dated 16.11.2018. The amount became due with effect from 16.11.2018.
  - d.** Being balance outstanding amount of Rs. 74,234/- which remains unpaid in respect of the Invoice No. 380 dated

01.12.2018. The amount became due with effect from 01.12.2018.

- e. Being balance outstanding amount of Rs. 27,668/- which remains unpaid in respect of the Invoice No. 424 dated 17.12.2018. The amount became due with effect from 17.12.2018.

- iii. The Operational Creditor is registered under the MSME Act. As per section 16 of the MSME Act the date from which and rate at which interest is payable: Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rates notified by the Reserve Bank. (Current Bank Rate being: 5.65%).
- iv. Demand notice dated 31.08.2019 under rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) rules, 2016 was sent by the Operational Creditor to the Corporate Debtor demanding the outstanding amount to be paid by the Corporate Debtor. The Demand notice dated 31.08.2019 was also sent through email dated 17.09.2019.
- v. The Corporate Debtor, vide its reply to the demand notice dated 30.09.2019, denied the allegation made by the operational creditor in the demand notice dated 31.08.2019.

3. The amount claimed to be default is of Rs. 2,74,067.25/- as on 31.08.2019. (Rs. 2,40,979/- being the principal amount and Rs. 33,088.25/- being the compound interest with monthly rest @16.95/- on principal debt).

4. We have heard the Ld. Counsel appearing for the Applicant and perused the averments made in the application. It is admitted fact that when



the respondent did not appear then vide order dated 22.04.2021, the respondent was proceeded ex-parte and the matter was heard and the order was reserved on 17.12.2021. Since there is no reply of the Respondent, therefore, at this juncture, we would like to refer to the reply to the demand notice submitted by the Respondent/Corporate Debtor at Page 35 of the application. A scanned copy of the reply to the demand notice is reproduced below: -



VIJAY KUMAR VERMA  
Advocate  
MOB: 9350544481

Ch. No.129,  
Civil Court Compound,  
Rajnagar, Ghaziabad, U

Dated: 30.09.2019

:: REGISTERED ::  
REPLY NOTICE

To,


M/s SURMAN CORPORATE SERVICES PVT.LTD,  
Having Registered Office at :  
G-47, Vardhman Diamond Plaza,  
D.B.Gupta Road, Pahar Ganj,  
New Delhi- 110055.  
Through : Its prop./Director etc.

Dear Sir,

Under the instructions and information from and on behalf  
of my clientess Asha Panwar, Director peregrine India Logix  
Private Ltd. R/O B-2, Sahyog Apartment, sector-9, vasundhara,  
Ghaziabad, U.P. 201011, I the under-signed counsel, do hereby  
reply your notice dated 31.08.2019, as follows :

- 1- That the contents of para no.1 of the notice under reply,  
are irrelevant, do not relate with my said client, hence  
not admitted & denied.
- 2- That the contents of para no.2 of the notice under reply,  
are also irrelevant, do not relate with my said client,  
hence do not attract any reply, & denied.

Corporate Services Pvt. Ltd.

 (CONTD.2.)



( 2 )

3- That, the contents of para no.2 under the head 'Amount claimed .....Tabular Form', of the notice under reply, as alleged, are false, fabricated, imaginary, baseless, unfounded, hence not admitted to my client, and denied; the amount as shown under (i), (ii), & (iii) do not have any concern with my said client. On the other hand you have not clearly specified the matter, required to understanding.

4- That, the contents of para no.5 under the head 'Record of .....Utility(if any)', of the notice under reply, do not need reply, as written N/A.

5- That, the contents of para no.6 under the head 'Provisions of law.....has become due', of the notice under reply, do not relate with my said client, hence denied.

6- That, the contents of para no.7 under the head 'List of documents. . . . amount in default', of the notice under reply, as shown invoices, are not admitted, being irrelevant and baseless, hence denied.

7- That, the contents of para no.3 of the notice under reply are not admitted to my said client, being baseless and frivolous, hence denied.

Corporate Services Pvt. Ltd.  
3- That, the contents of para no.4 of the notice under reply  
Director's not admitted to my said client, being irrelevant with

- 9- That, the contents of para no.5 of the notice under reply, are not admitted, being irrelevant with my said client, hence denied.
- 10- That, the contents of para no.6 of the notice under reply, are not admitted, to my said client, hence denied. As there is nothing outstanding due against my said client to be paid to you as stated ...:to unconditionally repay the unpaid operational debt default) in full within ten days from the receipt of this letter; failing which we shall initiate corporate insolvency resolution process in respect of PEREGRINE INDIA LOGIX PVT.LTD. \*
- 11- That, it is pertinent to mention here that your said notice under reply, does not clear / specify any thing, and whatsoever written therein, is irrelevant, imaginary, baseless, unfounded, frivolous, and vague, hence there is no question arise to admit any word of the notice, under reply, hence the notice under reply is a bundle of lies, and bogus, and is required to be recalled by you the addressee.
- 12- That, my said client has put the matter before me to initiate law into motion against you, based on the notice under reply, but before initiation of law, I think that a chance is required to be given to you for recall the notice under reply, hence this reply is in your palm.

MA 22/08/2020

 Director



( CONTD.4.



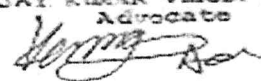
( 4 )

- 13- That, through this legal reply of notice, you are finally called upon to recall the notice under reply dated 31.8.19 as does not relates with my said client, within a period of fifteen days, failing which, my said client will be compelled to initiate law into motion against you on the cost, risk & consequences thereof you.
- 14- That, if any action may take by you on behalf of bogus notice under reply, my said client will be free to defend the same at the cost, & consequences of you the notices.
- 15- That, you are also liable to make a payment of Rs.5500/- the cost & expenses of this legal reply notice to my said client.
- 16- That, a copy of this legal reply notice is being kept with me in my office, for further reference, if required, and you are also advise to keep the reply safely with you, which may be summoned at any time during the litigation, if required.

The reply is being sent without prejudice.

Dated: 30.09.2019

( VIJAY KUMAR VERMA )  
Advocate



Corporate Services Pvt. Ltd.

5. On perusal of the reply to the demand notice referred to supra, we notice that the Respondent has though denied the amount claimed by the Applicant but in support of that, the Respondent has not produced any document to show that the amount shown in Part-IV of the application was ever paid by the Respondent to the Applicant. We further notice that the Applicant has claimed the amount in pursuance of the invoices raised on 16.10.2018, 01.11.2018, 16.11.2018, 01.12.2018 and 17.12.2018 as referred in Part-IV of the application and as per the averments made in Part-



IV Column 2 the principal amount claimed by the Applicant is Rs. 2,40,979/- and the Applicant has also referred to the amount due against the particular invoice. We further notice that the present application is filed on 30.10.2019, therefore, the same is within time and the amount of default is more than Rs. 1,00,000/-. Since the default has occurred prior to the issuance of the notification by which the minimum threshold is enhanced from Rupees one lakh to Rupees one crore, therefore, the Applicant has met the criteria for initiating the CIRP.

6. In sequel to above, we are of the considered view that the Applicant has succeeded to establish that the amount claimed in Part-IV of the application is due and payable by the Respondent.

7. **Accordingly, we hereby ADMIT the petition.** A moratorium in terms of Section 14 of the IBC, 2016 shall come into effect forthwith staying: -

(a) *the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

(b) *transferring, encumbering, alienating or disposing of by the corporate debt or 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.*

*Further:*

(2) *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.*

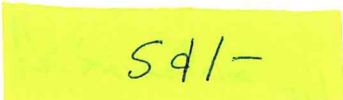
*(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

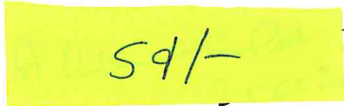
*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”*

8. The Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint, Mr. Shiv Nandan Sharma, an Insolvency Professional, Registration No. IBBI/IPA-001/IP-P00384/2017-18/10641 email id: [sharmasn@gmail.com](mailto:sharmasn@gmail.com), New Delhi duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file his report before the Adjudicating Authority.

9. The Operational Creditor is directed to deposit a sum of Rupees one lakh to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.

10. Copies of the order be sent to both the parties as well as to the IRP.

  
**Avinash K. Srivastava**  
**Member (Technical)**

  
**Abni Ranjan Kumar Sinha**  
**Member (Judicial)**