

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**SPECIAL BENCH- BENGALURU**  
**(Exercising powers of Adjudicating Authority under**  
**The Insolvency and Bankruptcy Code, 2016)**  
**(through web based video-conferencing platform)**

**CP (IB) No.95/BB/2023**  
**U/s. 9 of the IBC, 2016**  
**R/w Rule 6 of the IBC (AAA) Rules, 2016**

**IN THE MATTER OF:**

**M/s. Whitehand Services**

Nandi Gardens Apartment  
Avalahalli, Anjanapura Post  
Bangalore – 560002

... Petitioner/Operational Creditor

**Versus**

**M/s. RD Buidtech and Developers (Karnataka) Private Limited**

(Formerly Known as ZN Retail Private Limited)

No.16/1, Reliaable Phoenix Towers,  
Museum Road, Bangalore - 560001

... Respondent/Corporate Debtor

**Order delivered on: 31.10.2023**

**Coram:**

1. Hon'ble Justice (Retd) T Krishnavalli, Member (Judicial)
2. Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Petitioner : Shri.T.Jayasankar, Adv.  
For the Respondent : ---

**ORDER**

**Per: T Krishnavalli, Member (Judicial)**

1. The present petition is filed on 30.03.2023 under section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC'/Code), r/w. Rule 6 of the I&B (Application to Adjudicating Authority) Rules 2016, by Whitehand Services (for brevity 'Operational Creditor/Petitioner') inter alia seeking to initiate Corporate Insolvency Resolution Process against M/s. **RD Buidtech and Developers (Karnataka) Private Limited** (hereinafter referred as 'Corporate Debtor/Respondent) on the ground that the Corporate Debtor has committed a default for a total outstanding amount of Rs. 40,19,099/- as on

30.11.2022 which includes the outstanding amount due and the interest at the rate of 24% per annum from the date of the respective invoices.

2. Brief facts of the case, which are relevant to the issue in question, and as narrated by the Petitioner are as follows:

1. The Operational Creditor was engaged in the business of Facility management services across various industries. The Corporate Debtor is a company registered under the Companies Act, 1956, and is engaged in the day to day affairs of the company.

2. It is submitted that the Corporate Debtor approached the Operational Creditor for Facility management Services. The operational creditor has extended such management facilities to the corporate debtor at various locations as mentioned in the service agreement. The operational creditor has discharged its duty as per the requirements of the corporate debtor from time to time on a regular basis. A large amount of labour was involved in the same. The Operational Creditor has maintained a monthly attendance summary for the services rendered by the Corporate Debtor.

3. It is further submitted that the Corporate Debtor only made delayed and part payments to the operational creditor and is due and liable to make a payment of a total sum of INR 22,53,949/- with an interest of 24% p.a.

4. The operational creditor sent out a Notice dated 20/11/2019 with regard to 'withdrawal of security services' provided by the Operational Creditor to various locations covered by the corporate debtor; mainly due to substantial over dues that were not cleared by the corporate debtor. Following which, the operational creditor was forced to send another Notice dated 12/12/2019 with regard to 'Discontinuation of Service' intimating that the services provided by the operational creditor to the corporate debtor shall stand terminated as on 31/12/2019 and also requesting the corporate debtor to clear the outstanding dues payable to the operational creditor at the earliest.

5. Despite repeated efforts of the Applicant, the corporate debtor has failed to pay its admitted operational debt. Therefore, the operational creditor was constrained to issue a Demand Notice dated 27/01/2020 to the corporate debtor in FORM 3 under Section 8 of the Insolvency and Bankruptcy Code, 2016, read with Rule 5 of the Insolvency and Bankruptcy Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy Code, 2016 (AAA) Rules, 2016. The said Demand Notice was served on the corporate debtor on 30.01.2020.

6. However, despite receiving the demand Notice, the CD had neither intimated the existence of any dispute within a period of ten days from the date of receipt of notice (30.01.2020), nor made any payment to the operational creditor towards the same. Therefore, the outstanding due of INR 22,53,949/- with an interest of 24% p.a. is liable to be paid to the operational creditor by the CD.

7. It is further submitted that the petition to Hon'ble NCLT was submitted on 02.03.2020 seeking initiation of CIRP of operational creditor. The said petition was disposed of on 15.04.2021 by the Hon'ble NCLT, in which settlement of dues by the CD within a month from the date of order was directed; and it had directed the operational creditor to approach the NCLT by filing appropriate petition. Subsequently, the operational creditor had filed a petition to Hon'ble NCLT for recall of order dated 15.04.2021 and the Hon'ble NCLT reiterated the earlier order directing filing of fresh petition. Hence, the present petition is being filed.

8. The operational creditor had issued the fresh demand notice to the CD in Form 3 under section 8 of IBC, 2016 on 30.12.2022 seeking payment of outstanding dues together with interest upto 30.11.2022 amounting to Rs. 40,19,099. The demand notice was received by the respondent on 03.01.2023.

9. However, despite receiving the demand notice again, the CD had not made any payments to the applicant. Therefore, the

outstanding due of Rs. 40,19,099/- was including interest upto 30.11.2022 and interest of 24% p.a. is liable to paid to the operational creditor by the CD. Hence, there exists no bonafide dispute with regard to the debt being claimed by the operational creditor.

3. Heard the counsel for the petitioner. The learned counsel for the petitioner stated that the this Adjudicating Authority vide order dated 15.04.2021 in CP(IB)180/2020 disposed of the same with a direction to the respondent to settle the claim within period of one month from the date of receipt of the order, failing which the petitioner here in was entitled to approach this Tribunal by filing appropriate petition in accordance with law for the same of cause of action.
4. Subsequently, **I.A. No. 393 of 2021** was filed by the petitioner for recall of the order dated 15.04.2021 and restoration of the petition CP(IB)180/BB/2020. Vide order dated 06.10.2022, this I.A. was dismissed mentioning that liberty in the order dated 15.04.2021 was granted for filing a fresh C.P. Therefore recall of order and restoration of C.P was not allowed.
5. We have considered the pleadings and material available on record. The Primary issue for consideration in the fresh C.P is the threshold limit. On perusal of the documents produced it is seen that in part IV of Form V the amount in default is only Rs. 40,19,099/- which is below the threshold limit of Rs. 1 Crore as mandated by section 4 of IBC, 2016. Since the petition is filed on 30.03.2023; the existing provisions of Section 4 will apply.
6. In view of the facts and circumstances this Tribunal is of the considered opinion that since the threshold requirement of section 4 of the Code is not met, the petition is not liable to be admitted.
7. Therefore, the instant petition **CP (IB) No. 95/BB/2023** is hereby **dismissed**. However, this order shall not preclude the petitioner from pursuing other remedies in accordance with law, if so advised.

-Sd/-

**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

-Sd/-

**(T.KRISHNAVALLI)**  
**MEMBER (JUDICIAL)**