

In the National Company Law Tribunal
Mumbai Bench.

CP No.208/I&BC/NCLT/MB/MAH/2017

Under Section 9 of Insolvency & Bankruptcy Code 2016

In the matter of

Sudip Sarcar
V/s
Nomad Films Limited

Order delivered on 22.09.2017

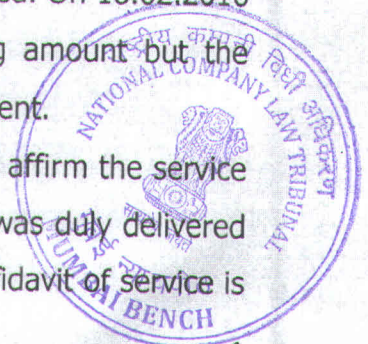
Coram: 1) Hon'ble Shri M.K. Shrawat, Member (Judicial)
2) Hon'ble Shri Bhaskara Pantula Mohan (Judicial)

For the Petitioner : 1. Mr. Satyaprakash Sharma, Advocate, i/b Abdi & Co.

Per M.K. Shrawat, Member (Judicial).

ORDER

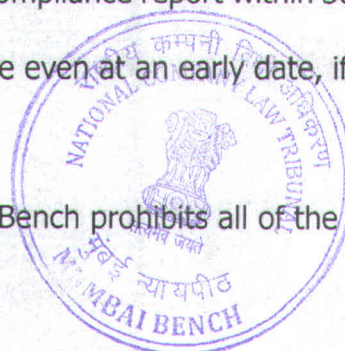
1. This is the Petition transferred from the Hon'ble High Court and thereafter on 12.06.2017, the Petitioner has filed Form No.5 in the capacity of "Operational Creditor" to initiate Insolvency Resolution Process against the "Corporate Debtor" viz. M/s. Nomad Films Limited, Andheri (West), Mumbai for recovery of "Operational Debt" of ₹6,25,041/- (Principal amount).
2. The Petitioner was appointed as "Head of Sale" vide appointment letter dated 18.08.2014 on an annual salary of ₹21,60,000/-. The terms of the salary were that the payment shall be on consultancy basis for which the Petitioner shall raise monthly Bills for every calendar month @ ₹1,80,000/- per month. The Petitioner had submitted the Bills till February 2015. On 31.01.2015 the Petitioner has stated that the Bills have not been fully paid towards his services rendered for the period from August 2014 to October 2014. During the period of 31.01.2015 to 05.08.2015, the Petitioner had sent several emails demanding the payment of the outstanding Bills but Respondent had given assurances only; however, no payment was made. Even from August 2015 the Respondent had stopped replying the email communications. On 23.10.2015 a Notice was issued through the Advocate demanding for the outstanding payment along with interest. Although the Notice was served upon the respondent but no compliance or reply was made. On 31.03.2015 only a sum of ₹36,000/- of TDS amount was credited. On 18.02.2016 one more Notice was issued demanding for the outstanding amount but the Respondent Company have not responded nor made any payment.
3. The Petitioner has issued Demand Notice on Form No.3 and to affirm the service of Notice an affidavit is filed affirming therein that the Notice was duly delivered and no "dispute" had been raised by the Debtor. One more affidavit of service is



on record affirming therein a delivery of Notice on the Corporate Debtor on 22nd June 2017. Even that Notice remained unanswered. It appears that the Respondent Debtor had nothing to say in its defence in this regard.

FINDINGS

4. In the light of the above discussion and on due perusal of the documents annexed, it is established that the Operational Creditor had made 'Consultancy services' to the Corporate Debtor Company and Bills thereof were raised for payment. However, the Corporate Debtor Company had "defaulted" the payments despite several reminders. As a result, the Operational Creditor has filed this Application under section 9 of the Code against the Corporate Debtor to initiate Corporate Insolvency Resolution Process. The Petition under consideration, therefore, deserves to be "Admitted".
5. The Petitioner has proposed the name of Interim Resolution Professional Mr. Rajendra Karanmal Bhuta, 1207, Yogi Paradise, Yogi Nagar, Borivali (West), Mumbai – 400092, email: rkbhuta@gmail.com , Registration No.IP 00078. The IRP has also given his consent in Form No.2 for the said assignment.
6. Having considered the totality of the circumstances and the Application for initiation of Insolvency Resolution Process under the I&BP Code, 2016 and having considered the default of the Corporate Debtor in making the payment as discussed *supra*, it is hereby pronounced that "Moratorium" as prescribed under Section 14 of the Code 2016 shall come into operation. Accordingly, this Tribunal appoints the said Mr. Rajendra Karanmal Bhuta, as Interim Resolution Professional to initiate the Insolvency Resolution Process on the above Corporate Debtor forthwith, with the following directions:-
7. The Interim Resolution Professional shall perform the duties as assigned under Section 18 of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench.
8. The IRP so appointed shall also comply the other provisions of the Code including section 15 of The Code. Further, the IRP is hereby directed to inform the progress of the Resolution Plan to this Bench and submit a compliance report within 30 days of the appointment. A liberty is granted to intimate even at an early date, if need be.
9. Since the Application is "Admitted", therefore, this Bench prohibits all of the following viz.:-



- (I) (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(SARFAESI Act);
- (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) That supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (III) That the provisions of sub-section (1) Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (IV) That the order of Moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- (V) That the public announcement of the corporate insolvency resolution process shall be acted upon immediately as specified under section 13 of the Code.
10. Accordingly, **this CP 208/I & BC/NCLT/MAH/2017 stood admitted.**
11. The Insolvency Resolution Process is commenced from the date of this order.

Sd/-

BHASKARA PANTULA MOHAN

Member (Judicial)

Date : 22.09.2017

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Sd/-

M. K. SHRAWAT

Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 10.11.17
Assistant Registrar
National Company Law Tribunal Mumbai Bench