

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

COURT - IV

4.

C.P.(IB)-3060(MB)/2019

CORAM :

SHRI RAJASEKHAR V.K.
MEMBER (J)

SHRI RAVIKUMAR DURAISAMY
MEMBER (T)

ORDER SHEET OF THE HEARING HELD ON **05.12.2019**

Name of the Parties: Micromax Informatics Ltd
V/s.
Good day Ventures (India) Pvt Ltd

SECTION 9 OF THE INSOLVENCY & BANKRUPTCY CODE, 2016

ORDER

1. This is a Company Petition filed under section 9 of the IBC and the CP No. 3060(MB)2019. Ld. Counsel for the Operational Creditor present and none appeared on behalf of the Corporate Debtor. As per the present petition preferred by the Operational Creditor namely Micromax Informatics Ltd for initiation of CIRP against Good Day Ventures (India) Pvt Ltd, the Corporate Debtor defaulted in payment of total amount of Debt of Rs.9,88,21,579.70/- against supply of products. Corporate Debtor was appointed as Authorized Distributor of Operational Creditor vide agreement dated 13.04.2014 and subsequently another agreement dated 07.04.2017 was entered into between the parties. The Corporate Debtor has from time to time purchased the products from the Operational Creditor and Operational Creditor is maintaining the running account of the transactions in respect of the Corporate Debtor.
2. It is further submitted by the Operational Creditor that there is an admitted outstanding amount of Rs.9.22.21.597.70/- After much persuasion and follow up by the Operational Creditor, in discharge of admitted legal debt towards the aforesaid total outstanding amount,

had agreed to partially pay the above noted legally enforceable debt/outstanding amount to Operational Creditor. Accordingly, the Corporate Debtor had issued one (1) cheque bearing No.023025 dated 11.09.2018 for a sum of Rs. 7,74,67,345/- towards part-payment of aforementioned legally enforceable outstanding debt/dues of the Operational Creditor.

3. However, the above cheque was dishonoured on its presentation vide Return Memo dated 13.09.2018. The Operational Creditor also initiated proceedings under section 138 read with section 142 of the Negotiable Instruments Act, 1981 against the Corporate Debtor and Directors and the same is pending adjudication before the Learned Metropolitan Magistrate's Court Patiala House, New Delhi.
4. Further it is stated that Ld. Authorized Representative of the Operational Creditor issued the Demand Notice dated 25.05.2019 under section 8 of the I & B Code read with rule 5 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rule, 2016. However, the Demand notice was returned undelivered. Thereafter, the Operational Creditor again sent the Statutory Demand Notice with covering page dated 12.06.2019 to the Corporate Debtor as well as to the Directors of the Corporate Debtor and the same was served on various dates by Registered Post.
5. It is further stated that the Corporate Debtor had failed to pay the outstanding amount till date and also has not raised any dispute despite receipt of Statutory Demand Notice. The Operational Creditor raised various invoices between the period 24.05.2017 and 28.03.2018 for supply of its products.
6. The Operational Creditor has not recommended the name of the IRP and left it to the Adjudicating Authority for appointment IRP. It is observed from the record that the Corporate Debtor had appeared on only one occasion and sought time to file Vakalatnama, Board

Resolution and Reply in the matter. Thereafter, when the matter was listed on various dates, neither the Corporate Debtor appeared nor filed any reply to the Demand Notice and it has also not filed any reply to the present petition.

7. In the above facts and circumstances and records made available and the submission of the Ld. Counsel for the Operational Creditor, we are satisfied that the Corporate Debtor has failed to make its outstanding debt to Operational Creditor and the same is more than minimum amount of 1 lakh Rupees prescribed in IBC and the petition filed under section 9 of the IBC is complete in all respects and therefore no reasons to deny admission of the petition.
8. The Operational Creditor has not proposed the name of the any Interim Resolution Professional (IRP) in the matter.
9. It is, accordingly, hereby ordered as follows: -
 - a. The petition bearing C.P.(IB)-3060(MB)/2019 filed by the **Micromax Informatics Ltd** the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Good Day Ventures (India) Private Limited (CIN: U00000DL2000PLC104823)** , the Corporate Debtor, is admitted.
 - b. There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - (i) 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;

- (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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 (Sarfaesi) Act, 2002;
- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

(b) Notwithstanding the above, during the period of moratorium,-

- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
- (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) Since the Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter, the IRP shall be appointed by this Adjudicating Authority by a separate order. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out her functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.
- (f) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (g) The Operational Creditor shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (h) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than **two days** from the date of this Order.

10. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate

Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-
RAVIKUMAR DURAISAMY
Member (Technical)

05.12.2019/svr

Sd/-
RAJASEKHAR V.K.
Member (Judicial)