

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

**CP (IB) No.66/BB/2021**  
**U/s. 9 of the IBC, 2016**  
**R/w Rule 6 of the IBC (AAA) Rules, 2016**

**IN THE MATTER OF:**

**Sushma Ramanna**

Residing at No: 400, Bhagyashree Nilaya,  
1<sup>st</sup> Cross, 5<sup>th</sup> Main, Vidyanagar,  
T- dasarahalli,  
Bengaluru - 560 057

... Petitioner/Operational Creditor

**VERSUS**

**M/s. Coursecube Pvt. Ltd.**

No 57, 7<sup>th</sup> Main, N.S. Palya,  
Subhraj Garden, BTM Layout. II Stage,  
Bengaluru- 560 076

... Respondent/Corporate Debtor

**Order delivered on: 01<sup>st</sup> February, 2022**

**Coram:** Hon'ble Mr. Ajay Kumar Vatsavayi, Member (Judicial)  
Hon'ble Mr. Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Petitioner : Shri T.N Chandrashekhar

For the Respondent : Shri Pranav Khatkul

**ORDER**

**Per: Ajay Kumar Vatsavayi, Member (Judicial)**

1. The present petition is filed, 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 Sushma Ramanna (for brevity 'Operational Creditor/Petitioner') inter alia seeking to initiate Corporate Insolvency Resolution Process in respect of M/s. Coursecube Pvt.Ltd (hereinafter referred as 'Corporate Debtor/Respondent) on the ground that the Corporate Debtor has committed a

CP (IB) No.66/BB/2021

— sd —

default for a total outstanding amount of Rs.17,41,652/- ( Rupees Seventeen Lakhs Forty One Thousand Six Hundred and Fifty Two Only) on 08.08.2019.

2. Brief facts of the case, which are relevant to the issue in question, and as narrated by the Petitioner are as follows:
3. The petitioner was an employee of the respondent. The Operational Creditor joined the Corporate Debtor, which is running an educational academy, as a Lead Counsellor for a monthly salary of Rs.35,000/-. It is stated that the operational creditor was given a salary raise and salary was fixed at Rs.48,000/- starting from 1<sup>st</sup> April 2018. Later the operational creditor was offered Directorship position heading the Academy Sales and salary was further increased to Rs.1,22,000/-. It is further stated that the salary of the operational creditor was not fully paid on time. Monthly part salaries were being paid from the month of June 2018 and subsequent months onwards. Salary dues were due and payable monthly at the end of each month. The last part salary was received on 7<sup>th</sup> August 2019. It was also submitted that the Operational creditor resigned from the post of Directorship on 20.09.2019 and the resignation was duly accepted by the corporate debtor. It was further stated that despite promises operational creditor salary dues were not paid.
4. It was submitted that the operational creditor had filed Company Petition No: (IB) 31/BB/2020 before NCLT, Bengaluru bench which was disposed vide order dated 23.01.2020 and the Hon'ble Tribunal directed the respondent to settle the claim of operational creditor as soon as the company is able to get any investment into it, on par with other pending dues. The Hon'ble Tribunal has also stated that if the operational creditor dues are not settled in spite of receipt of funds by the corporate debtor the operational creditor is at liberty to file fresh Company Petition.

5. It was stated that the operational creditor has not received salary till date of filing this Company Petition. Total payments due against unpaid salaries is Rs. 17,41,652/- including interest (Rupees Seventeen Lakh Forty One Thousand Six Hundred and Fifty Two Only).
6. We have heard the learned counsels for the petitioner and the respondent and have perused the records.
7. The first issue for consideration is whether the demand notice in Form 3 dated 03.04.2021 was properly served. It has observed that the demand notice was served through speed post to the respondent on 03.04.2021. The Respondent has not acknowledged the service of demand notice. For proof of service of demand notice the petitioner has produced Speed Post Receipt and Postal Tracking Report. In view of the same, the question of non-delivery of demand notice does not arise at all.
8. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. There is no dispute as to the liability of the corporate debtor.
9. The other issue for consideration is whether present application is filed within limitation. The date of default is 08.08.2019, as no payment was received after 07.08.2019 and the petition was filed on 01.07.2021. Therefore, the petition has been filed within the period of limitation.
10. The corporate debtor through his counsel has admitted the debt and its liability to pay the same to the petitioner, however, due to its financial difficulties they have failed to pay the same.
11. We have gone through the contents of the application filed in the prescribed Form no.5 and is found to be complete. As discussed above, there is a total unpaid operational debt (in default) of Rs.17,41,652/-. It could be seen that the

Operational creditor has sent the demand notice in Form 3 by Speed Post dated 03.04.2021 for the payment of outstanding dues attached at page 85 of the application which are admitted by the corporate debtor. A copy of bank statement of operational creditor has been attached as Exhibit -H of the application. It has been shown that corporate debtor has failed to pay its dues to the operational creditor. It is also observed that the conditions under section 9 of the Code stand satisfied.

12. In the given facts and circumstances; the present petition being complete and having established the default in payment of the operational debt and for the default amount being above Rs.1,00,000/-, the petition is admitted in terms of Section 9 of the IBC,2016 and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequences of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- (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
- (b) any court of law, tribunal, arbitration panel or other authority;
- (c) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- (d) 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (e) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Corporate Debtor;
- (f) It is further directed that the supply of essential goods or services to the Corporate Debtor as may be specified, shall not be terminated or suspended or interrupted during the moratorium period;
- (g) The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in

consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor;

(h) 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 passed an order for liquidation of Corporate Debtor under Section 33 as the case may be;

13. In Part III of Form No.5, Mr. Manishkumar Patel, Registration No. IBBI/IPA-001/IP/IP-01342/2018-2019/12061 has been proposed as Interim Resolution Professional (IRP). Written Consent given by the IRP in Form No.2 dated 23.04.2021 has been filed along with the C.P at Page Nos.107-112 (Exhibit J). However, since certificate of registration is not filed, the IRP shall file the same within one week from the receipt of this order.

14. The Law Research Associate of this Tribunal has checked the credentials of Mr. Manishkumar and there is nothing adverse against him. In view of the above, we appoint Mr. Manishkumar, bearing Registration No. IBBI/IPA-001/IP/IP-01342/2018-2019/12061, registered address at 1, Visharam Apartment, L.B.S. Road, Opp. 3 Petrol Pump, Thane 400 602 e-mail: [manish@ipmanish.com](mailto:manish@ipmanish.com), as the Interim Resolution Professional of the Corporate Debtor. The IRP is directed to take the steps as mandated under the IBC, under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

15. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days for filing the report of Constitution of the

Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.

16. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

— sd —

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

Anjana (LRA)

— sd —

**(AJAY KUMAR VATSAVAYI)**  
**MEMBER (JUDICIAL)**