

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)

CP (IB) No.87/BB/2023
U/s. 9 of the IBC, 2016
R/w Rule 6 of the IBC (AAA) Rules, 2016

IN THE MATTER OF:

MoEngage India Private Limited,

Registered Office at:

1st Floor, #32, Salapuriah Tower II,
Chikku Lakshmaiah Layout,
Luskar Hosur Road, Koramangala
Bangalore – 560029

... Petitioner/Operational Creditor

Versus

Trell Experiences Private Limited,

Registered Office at:

No. 579/B, RT Square, 3rd Floor,
1st Main Road Santhosapuram,
Sector 6, HSR Layout
Bangalore- 560 102.

... Respondent/Corporate Debtor

Order delivered on:19th December, 2023

Coram:

Hon'ble Shri. K.Biswal, Member (Judicial)

Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

PRESENT:

For the Petitioner : Appeared for Joseph Antony
For the Respondent : None

O R D E R

Per: Manoj Kumar Dubey, Member (Technical)

1. The present petition is filed on 11.01.2023 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 M/s **MoEngage India Private Limited** (for brevity 'Operational

Creditor/Petitioner') inter alia seeking to initiate Corporate Insolvency Resolution Process against M/s. **Trell Experiences 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. 1,11,15,302/-. (Rupees One Crore Eleven Eight Lakhs Fifteen Thousand Three Hundred and Two Only).

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

- a) The Trell Experiences Private Limited (Corporate Debtor) intending to conduct its business through an online platform engaged the services of MoEngage India Private Limited ("Operational Creditor") in this regard, vide Software as a Service License Agreement dated December 01,2018, copy of which was attached with the petition. On August 19,2020; and on October 29,2021 Addendums were later executed to the agreement. In terms thereof, the OC rendered services to the CD as agreed, and to its complete satisfaction.
- b) For the services rendered by the under the Agreement, the OC raised eleven (11) invoices from December 01,2021 till September 02,2022 for a total aggregate principal sum of Rs.1,11,15,302/- (copies of invoices were attached to the petition) Despite the OC raising the invoices, the CD failed to make good on the payments. The pending dues were acknowledged by the CD who undertook to clear the dues vide email dated December 22, 2021. Despite the same the CD failed to clear the outstanding amounts, in light of which the OC sent reminder emails to the CD calling upon them to clear outstanding amounts on January 13,2022 and January 26,2022.
- c) Due to lack of response from the CD, the OC was constrained to issue Demand Notice dated 10.08.2022, through its counsel calling upon the CD to clear all outstanding dues amounting to Rs. 1,11,15,302/- within seven days from the date of the notice.

The CD once more failed to clear the outstanding dues and further failed to reply to the said Demand Notice.

- d) Being aggrieved by the actions of the CD, the OC was constrained to issue Demand Notices along with invoices under Rule 5(1)(a) and 5(1)(b) of IBBI Rules, demanding payment of Rs. 1,11,15,302/- dated 30.09.2022, via RPAD, Courier and e-mail. Due to the CD refusing service of the same via RPAD, the OC reissued the said Demand Notices once more through RPAD, to the registered address of the CD in Bangalore as well as Mumbai, and further to an additional address made public by the CD on 16.11.2022, to ensure that the OC has taken all steps to serve the Notices upon the CD.
 - e) The learned counsel for the petitioner submitted that even after 10 days having elapsed since issuing the demand notices, the CD has failed to make payments towards the pending due amounts. Further, the CD failed to issue notice of any pending dispute with respect to the default amount and failed to furnish any document showing payment of outstanding amounts. Hence, there is no pre-existing dispute between the OC and CD.
 - f) The learned counsel for the petitioner further submitted that total outstanding debt that is due from the Corporate Debtor to the Operational creditor is Rs. 1,11,15,302/-.
 - g) Also, submitted that the petitioner has complied with all the mandatory provisions of Section 9 (3) (a) and (b) of IBC, 2016. Further, the respondent has not replied to the Demand Notice dated 30.09.2022 issued under 8 of IBC, which is attached with the Company Petition.
- 3.** It was noticed by this Tribunal that, notice in the present case was issued on 10.07.2023. On 08.08.2023 it is observed by this Tribunal that the proof of service of the notice filed by the petitioner showed that the notice was returned with remark “addressee left without instructions”. Therefore the tribunal directed the petitioner to adopt substituted mode of service by way of paper publication in two daily newspapers and the same was complied and the copy of paper

publication was filed vide diary no. 4676 dated 07.09.2023; however no one attended on behalf of the respondents on 27.09.2023 and 06.11.2023 also subsequent to this paper publication.

4. It is observed by the Tribunal that inspite of availing substantial time the respondent did not appear nor filed any objection. Hence on 06.11.2023, the matter was reserved for orders.
5. Heard the counsel for the Petitioner and perused the records available.
6. The Present Petition was filed on 11.01.2023 under section 9 of the Insolvency and Bankruptcy Code, 2016 by M/s MoEngage India Private Limited inter alia seeking to initiate Corporate Insolvency Resolution Process against M/s. Trell Experiences Private Limited on the ground that the Corporate Debtor has committed a default for a total outstanding amount of Rs. 1,11,52,302/-.
7. The amount in default mentioned in Form 5 is Rs. 1,11,52,302/- therefore the threshold requirement of Rs. 1 Crore at the time of filing of Petition is fulfilled. This Tribunal has perused the invoices attached along with the petition and the debt is established.
8. The Learned Counsel for the petitioner has attached Demand Notice dated 30.09.2022 and the copy of email is also attached. Further, no reply to the demand notice is received. Moreover, no dispute has been raised by the respondent nor any appearance was made before this Tribunal. The Petitioner had filed affidavit under section 9(3)(b) of IBC dated 17.04.2023 affirming that that no notice of dispute to the unpaid operational debt has been given by the Corporate Debtor.
9. The date of default as per Form 5 the debt fell due for payment from 1st December, 2021 and the Petition filed on 11.01.2023, hence the Petition is filed well within the limitation.
10. Accordingly, considering the facts and circumstances of the cases this adjudicating authority is of the considered opinion that there is no reason to deny the petition filed under section 9 of the IBC, 2016 by the Operational Creditor to initiate CIRP against M/s Trell Experiences Private Limited. Therefore, the instant Company Petition bearing **CP (IB) No. 87/BB/2023 is admitted** against the Corporate Debtor and 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 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 Securitization 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;
- (e). 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;
- (f). 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;
- (g). 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;

- 11.** This Bench appoints **Mr. Padmanabhan Nair** Registration No. IBBI/IPA-001/IP-P-02289/2020/202113495 having registered address: 102 Dollars Regency ,17 Narayanappa Road Nagashettyhalli, Florence public school, Bangalore, Karnataka, 560094 e-mail paddy.ideck@gmail.com as Phone Number: 9886211996 Interim Resolution Professional to carry the functions as mentioned under the IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20 and 21 of the IBC. The IRP shall file his written consent within one week from today.
- 12.** The Operational Creditor shall deposit a sum of Rs 2,00,000/- (Rupees Two Lakhs 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.
- 13.** The Interim Resolution Professional shall, after collation of all the claims received against the 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.
- 14.** A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send the copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

-Sd/-

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

-Sd/-

(K.BISWAL)
MEMBER (JUDICIAL)