



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 1126/I&BP/2019

Under section 8 &9 of the IBC, 2016

In the matter of

CG Power & Industrial Solutions Limited

6th Floor, CG House, Dr. Annie Besnat

Road, Worli, Mumbai-400030.

.... Petitioner

V/s.

Anupam Electricals and Engineering
Industries Private Limited

B No. 15 Dadiseth Agiary Line, 4th Floor,
Kanchan Bhavan, Post Box No. 2512,
Kalbadevi Road, Mumbai-400002.

.... Corporate Debtor

Order delivered on: 11.11.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Amit A. Tungare, Gauravi Adhikri, Adv. Tarannum Shaikh.

For the Corporate Debtor: Adv. Anup Khaitan i/b Anup Kahitan & Co.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This company Petition is filed by CG Power and Industrial Solution Ltd. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Anupam Electricals and Engineering Industries Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate



Debtor committed default on 15.09.2018 in making payment to the extent of Rs. 36,03,571/- including interest by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The petition reveals that the Petitioner engaged in the business of design manufacturing and marketing of products relating to power generation, transmission and distribution. The Corporate Debtor approached the Petitioner for the supply of industrial motors. The Petitioner as per the order of the Corporate Debtor sold, supplied the goods and raised invoices on the basis of four-purchase orders dated 31.12.2015, 13.05.2016, 30.05.2016 and 31.08.2018 issued by the Corporate Debtor.

3. Despite several requests made by the Petitioner, the Corporate Debtor failed to clear its dues. Thus, on account of non-payment of outstanding dues, on 18.09.2018, the Petitioner issued Demand Notice, under Section 8 of the Code, demanding a sum of Rs. 27,34,049/- plus interest @18% per annum. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

4. The Counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. Subsequently, the counsel for the Petitioner intimated the date of hearing to the Corporate Debtor.

5. On 09.09.2019 the counsel for Corporate Debtor sought time to file reply, this bench permitted the Corporate Debtor to file reply on or before 16.09.2019 but no reply has been filed by the Corporate Debtor.

6. On hearing the counsel for the Petitioner and ongoing through the Form-5 filed by the Petitioner and the related materials this bench is of the view that the



Corporate Debtor committed default in making payment to the Petitioner and hence this petition deserves admission.

7. One Mr. Anish Gupta, residing at 501, Ruby Isle, Royal Palms, Aaray Milk Colony, Goregaon East, Mumbai; having Registration No. IBBI/IPA-001/IP-P-01540/2019-2020/12473 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

8. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

- (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) that the order of moratorium shall have effect from 11.11.2019 till the completion of the CIRP 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.



(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Anish Gupta, residing at 501, Ruby Isle, Royal Palms, Aaray Milk Colony, Goregaon East, Mumbai; having Registration No. IBBI/IPA-001/IP-P-01540/2019-2020/12473 as Interim Resolution Professional to carry the functions as mentioned under the Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

Sd/-
V. Nallasenapathy
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)