

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. III)

Company Petition No. IB-757ND/2020

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

Vani Advertising

...Applicant/Operational Creditor

VERSUS

Santasha Real Estate Pvt Ltd.

...Respondent/Corporate Debtor

Pronounced on:29.03.2022

CORAM:

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)**

For the Operational Creditor: Namit Saxena, Advocate

For the Respondent: ---

ORDER

Per: Bachu Venkat Balaram Das, Member (J)

1. The Present Application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Vani Advertising (for brevity 'Operational Creditor') with a prayer to

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initiate the Corporate Insolvency process against Santasha Real Estate Private Limited (for brevity 'Corporate Debtor').

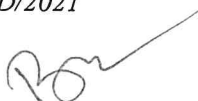
2. The Operational Creditor/Applicant submits that the applicant entered into a contract with the corporate debtor to provide Advertising Services and vide confirmation accounts dated 07.01.2017, generated by the applicant on account of confirmation orders provided by the corporate debtor, an amount of Rs.40,77,417/- was required to be paid by the corporate debtor. The aforesaid sum has not been paid by the corporate debtor to the Applicant.
3. The Operational Creditor/Applicant submits that on account of assurance of payment on time, the applicant completed the work as prescribed by the corporate debtor within the stipulated time. However, the payment of Rs. 40,77,417/- was not paid by the corporate debtor, upon the completion of the work and the same amount is still pending to be paid to the applicant. The applicant has been since then, from time to time, repeatedly requesting the corporate debtor to pay the outstanding amount and settle the balance but the same is in vain. The unpaid debt of Rs.40,77,417/- has been acknowledged by the corporate debtor through one of its Director, Mr. Manish Gupta, in the confirmation of accounts dated 01.04.2019, wherein the company's stamp of the corporate debtor has duly been established.
4. The Operational Creditor issued section 8 demand notice dated 10.12.2019 under the provisions of the I & B Code, 2016 (Under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 calling upon the corporate debtor to pay the operational debt of Rs 40,77,417/- along with interest @12% p.a. The Corporate Debtor has replied to the demand notice wherein the corporate debtor has failed to produce any document on record to show any pre-existing dispute between the parties prior to the issuance of section 8 demand notice.

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5. The Operational Creditor filed present application on 20.02.2020 under section 9 of IBC, 2016 and served the copy of this application through email at the registered email address as reflected on the MCA website, which was duly delivered to the corporate debtor. The copy of the Application was also duly served through speed post at its registered address as reflected on the MCA website, which was duly delivered reflecting remark 'Item Delivery Confirmed'.
6. The Corporate Debtor has neither filed any reply nor appeared before the Bench. The Corporate Debtor was proceeded ex-parte on 14.03.2022.
7. As per Form V, Part IV, the Corporate Debtor is liable to pay an outstanding sum of Rs. 40,77,417/- along with interest 12% p.a. The date of default is 07.01.2017 as per Part IV but the acknowledgement by the corporate debtor in confirmation of account was made on 01.04.2019, hence the debt is not time barred and the application is filed within the period of limitation.
8. The Applicant has filed an affidavit under section 9(3)(b) dated 28.01.2020 affirming that no notice of dispute has been given by the corporate debtor relating to dispute of the unpaid operational debt.
9. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
10. In the given facts and circumstances, the present application is complete and the operational creditor is entitled to claim its dues, which remain uncontroverted by the Corporate Debtor, establishing the default in payment of the operational debt beyond doubt. The present application is admitted, in terms of section 9 (5) of IBC, 2016.

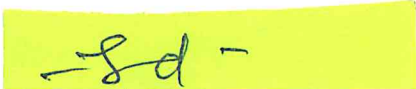
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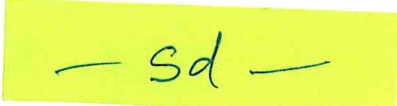


11. Since the operational creditor has not proposed the name of the IRP in PART III, this Tribunal hereby appoints Ms. Gunjan Mittal as IRP, with registration number IBBI/IPA-003/IP-N00361/2021-22/13756, email: (ip.gunjanmittal@gmail.com) who is and hereby appointed as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Corporate debtor and specific consent is filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and should make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016.
12. We direct the Operational Creditors to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional namely, Ms. Gunjan Mittal to meet out the expense to perform the functions assigned to her in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount, however, shall be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.
13. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the Corporate Debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.



14. A copy of the order shall be communicated to the operational creditor, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. operational creditor is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.


(BACHU VENKAT BALARAM DAS)
MEMBER (Judicial)


(NARENDER KUMAR BHOLA)
MEMBER (Technical)