

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

**CP(IB) No.3730/MB/C-IV/2019**

Under Section 9 of the IBC, 2016

*In the matter of*

**Swastik Auto Works**

**A sole Proprietorship concern represented  
by its proprietor, Mr. Sanjay Manjrekar**

...Operational Creditor

v/s.

**Pramukh Car Riders Limited**

**[CIN: U50100MH1999PTC122080]**

...Corporate Debtor

**Order Delivered on:13.03.2020**

***Coram:***

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)

Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Petitioner: Mr. Raghav Ganesh a/w Ms. Samiksha Maneki/b PRA  
Law Offices, Advocates.

For the Respondent: Mr. Pravin V. Bhavsar, Director

**ORDER**

***Per: Rajasekhar V. K. Member (Judicial)***

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by **Swastik Auto Works**, a Proprietorship concern represented by its sole proprietor, Mr. Sanjay Manjrekar, (“the Operational Creditor”), seeking to initiate Corporate Insolvency Resolution

Process (CIRP) against **Pramukh Car Riders Limited** [CIN: U50100MH1999PLC122080] (“the Corporate Debtor”).

2. The Corporate Debtor is a company incorporated on 05.10.1999 under the Companies Act, 1956, as a public company limited by shares with the Registrar of Companies, Maharashtra, Mumbai. Its Corporate Identity Number (CIN) is U50100MH1999PLC122080. Its registered office is at Sheetal Apartments, Flat No. 4, V. N. Purav Marg, Narayan Nagar, Chunabhatti, Mumbai-400022, within the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with the present petition.
3. The present petition was filed on 18.10.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹ 2,09,960.00 (Rupees two lakh nine thousand nine hundred sixty only) as total amount (at p.11 of the Petition). The date of default is stated to be 24.05.2019.
4. The case of the Operational Creditor is as follows: -
  - a) The Operational Creditor submitted that the Operational Creditor is engaged in the business of Denting and Painting Labour work. Pursuant to the requirements of the Corporate Debtor, the Operational Creditor has provided the services to the Corporate Debtor from April 2018 to January 2019.
  - b) For the purpose of services provided by the Operational Creditor, the Operational Creditor has raised following invoices:
    - i) Invoice No. 154 dated 25.04.2019 for sum of ₹ 55682.00
    - ii) Invoice No. 155 dated 25.04.2019 for sum of ₹ 54068.00
    - iii) Invoice No. 156 dated 02.05.2019 for sum of ₹ 53781.00

- iv) Invoice No. 157 dated 04.06.2019 for sum of ₹ 46429.00
5. Invoices have been placed on record as **Annexure 'B'** at pp. 26-39. The invoices do not provide for interest in case of delayed payments. Ledger Accounts are not attached. The total debt due and payable to the Operational Creditor is ₹ 2,09,960.00 (Rupees two lakh nine thousand nine hundred sixty only), as mentioned at page 11 of the Petition.
  6. The Operational Creditor had served a Demand Notice in Form 3 dated 01.10.2019 to the Corporate Debtor (**Annexure 'C'**, pp.46-52) in terms of section 8 of the IBC. The proof of service of the said Demand Notice is not attached to the Petition. However, at the hearing held on 16.12.2019, Mr. Parin V. Bhavsar, Director of the Corporate Debtor, appeared in person and stated that the Demand Notice has in fact been received by Mr. Vipin Bhavsar, another Director of the Company. The Corporate Debtor has not replied to the Demand Notice. Court Notice dated 25.10.2019 has been served by hand on Corporate Debtor on 19.11.2019.
  7. The Operational Creditor has filed an affidavit under section 9(3)(b) of the IBC to the effect that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt (at pp. 74-76 of the petition). Further the Operational Creditor stated that there is no dispute with respect to operational debt.
  8. It is noticed that when the matter was listed on 16.12.2019, Mr. Parin V. Bhavsar, Director of Corporate Debtor, presented in person and admitted the liability of debt. Further the Operational Creditor has submitted the letter of acknowledgement of debt dated 18.06.2019 by the Corporate Debtor.
  9. It is noticed from the petition that-

- a) There is unequivocal admission of liability on the part of the Corporate Debtor in its Letter of Acknowledgements dated 18.06.2019 and 09.03.2018 (p. 19 of the petition).
  - b) The date of default is 24.05.2019.
  - c) Additionally, Mr. ParinV. Bhavsar, Director of the Corporate Debtor was present in person on 16.12.2019 and admitted the liability of debt.
10. The Petition made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
11. The Operational Creditor has proposed the name of Mr. Manoj Mainkar, Registration No. **IBBI/TPA-001/IP-P01221/2018-19/11926** as Interim Resolution Professional (IRP) in the matter. Mr. Manoj Mainkar has filed necessary consent vide Form 2 dated 06.11.2019, at the hearing held on 16.12.2019.
12. It is, accordingly, hereby ordered as follows: -
- (a) The petition bearing **CP(IB) 3730/MB/C-IV/2019** filed by **Swastik Auto Works**, 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 **Pramukh Car Riders Limited** [CIN: U50100MH1999PLC122080], 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.
- (c) 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;

- (d) 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.
- (e) 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.
- (f) Mr. Manoj Mainkar, registration No. IBBI/IPA-001/IP-P01221/2018-19/11926, is hereby appointed as Interim Resolution Professional to carry the functions as mentioned under 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 15,17,18,19,20,21 of the IBC. The IRP/RP shall file periodical report in regard to the progress of the CIRP, before this Adjudicating Authority.
- (g) 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.
- (h) The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees three lakh only) with the IRP to meet the initial expenses arising out of

issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

- (i) 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.
- (j) 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)**  
13.03.2020

Sd/-

**RAJASEKHAR V.K.**  
**Member (Judicial)**