

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 101
IB-652(PB)/2019

IN THE MATTER OF:

M/s. Jones Lang Lasalle Building Operations Pvt. Ltd.
..... Applicant/Operational Creditor

Versus

M/s. Celebration City Projects Pvt. Ltd.
..... Respondent/Corporate Debtor

Order under Section 9 of the IBC, 2016

Order delivered on 21.03.2022

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. NARENDER KUMAR BHOLA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner: Mr. Lakshay Sawhney, Advocate
For the Respondent: None appeared

PER- ORAL ORDER, RAMALINGAM SUDHAKAR, PRESIDENT

1. This is an application filed by an Operational Creditor under Section 9 of the IBC, 2016. In 2017, the Corporate Debtor, who is a developer of building name as "Red Mall" a property located in Ghaziabad, Uttar Pradesh hired the present petitioner, for its property management services name, Security, Housekeeping, Horticulture, Façade Clearing etc. The letter of Intent has been issued for Property Management Services dated 13.04.2017, is annexed at page 36 to 58 of this Petition.
2. That the Operational Creditor has provided services, to the Corporate Debtor from April 2017 to November, 2017. In terms of clause 3 of the Agreement, the Operational Creditor has raised certain invoices for the services provided to the Corporate Debtor, which were to be paid within 15 days of the date of invoice or on before the due date mentioned in the



invoices. Invoices are at Annexure P-6 @Page 59-70 and the details of these Invoices are as follows:

S. No	Invoice No. & Date	Services Provided in Month of	Invoice Amount (INR)	Due Date / Date of Default
1.	Invoice dt. 31.10.2017 (P-6 at pg.59-62)	Sept, 2017	35,97,375/-	15.11.2017
2.	Invoice dt. 30.11.2017 (P-6 at pg. 63-66)	Oct, 2017	37,11,495/-	15.12.2017
3.	Invoice dt. 30.12.2017 (P-6 at pg. 67-70)	Nov, 2017	32,28,102/-	29.01.2018
	Total of Default / Operational Debt		1,04,87,937	

3. The last payment by the Corporate Debtor was made on 26.10.2017 and thereafter, the Corporate Debtor defaulted in making payment. However, there is no dispute raised by the Corporate Debtor, in relation to the services rendered and the bills and invoices raised against the Corporate Debtor by the Operational Creditors.
4. Demand Notice in terms of Section 8 of the Code, 2016 was issued on 04.12.2018 to the Corporate Debtor at its Registered Office address (S-9, Basement, Green Park Extension Market, South Delhi, Delhi – 110016 as well as the other addresses know and which were in public domain / knowledge and to all its directors, through Speed Post sent on 04.12.2018, which is annexed as P-7 at page 71-134.
5. In addition, the Demand Notice dated 04.12.2018 was also sent through, e-mail on 04.12.2018, to the Corporate Debtor at its registered email Id i.e. “redmallccpl@gmail.com” and the same did not bounce back and thus stood delivered.
6. The Details of the Speed post sent on 04.12.2018 and its tracking report are as under:

S. No.	Address	Speed Post No.	Tracking Status
1.	S-9, Basement, Green Park Extension Market, South Delhi,	ED205563304IN@Pg118	Delivered on 06.12.2018 (Pg 119)

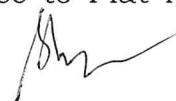


	<i>Delhi – 110016</i>		
2.	<i>Address where all or any books of account & papers are maintained: 301, Bakshi House 40-41, Nehru Place, New Delhi – 110019.</i>	<i>ED205563216IN@Pg118</i>	<i>Not Delivered UNCLAIMED (Pg 123)</i>
3.	<i>Other Address Flat No 504, Devika Tower, 6 Nehru Place, New Delhi – 110016.</i>	<i>ED205563202IN@Pg118</i>	<i>Not Delivered UNCLAIMED (Pg 121)</i>

7. Therefore, proper services has been effected on the Directors of the Corporate Debtor. Even demand notice was sent to the Corporate Debtors directors of the Corporate Debtor sent notice and the details were given in a separate chart which is as follows:

<i>S. No.</i>	<i>Name of Directors</i>	<i>Speed Post No.</i>	<i>Tracking Status</i>
1.	<i>Rejender Singh</i>	<i>ED205563180IN@Pg118)</i>	<i>Delivered on 05.12.2018 (Pg 133)</i>
2.	<i>Harpreet Singh Sethi</i>	<i>ED205563145IN@Pg117)</i>	<i>Delivered on 05.12.2018 (Pg 135)</i>
3.	<i>Harpreet Singh Sethi</i>	<i>ED205563176IN(Pg117)</i>	<i>Delivered on 05.12.2018 (Pg 131)</i>
4.	<i>Sanjay Aggarwal</i>	<i>ED205563159IN(Pg117)</i>	<i>Not Delivered Unclaimed (Pg 127)</i>
5.	<i>Gulshan Singh</i>	<i>ED2055631162IN(Pg117)</i>	<i>Not Delivered Unclaimed (Pg 129)</i>

8. It is now pleaded by the Petitioner that neither the Corporate Debtor nor its directors responded to the notices or paid the outstanding amount to the Operational Creditor. It is also stated by the Operational Creditor that the Corporate Debtor shifted its registered office to Flat No. 206, Vikas



Plaza, Plot No. 2, Local Shopping Centre, Kalkaji, New Delhi and the Intimation of the same was filed with the Registrar of Companies in (FORM No. INC-22 uploaded on 24.12.2018 at 13:12:40 hours), which is annexed as P-8 at page 137-139.

9. Even assuming that the change in the registered office has happened. It is pleaded that the Demand Notice was sent and delivered to the Corporate Debtor much prior to filing of Form INC-22. Therefore, it is considered that the service of notice is completed.
10. In relation to this the petitioner's apprehension with respect to the period of change of registered office, has relied upon the following decision:

"Similar question of intimation of change of registered office after service of demand notice arose before the Hon'ble High Court of Delhi in the matter "Hotline Teletubes & Components Ltd V AS Impex Ltd." 'Citation 2003(69) DRI 654 and before Hon'ble National Company Law Tribunal, Chandigarh Bench in the matter "RPG Industrial Product Pvt. Ltd. Vs Sahil International Pvt. Ltd." CP (IB) No.121/Chd/Pb/2018 (Decided on 21.1.2019) and it was held that demand notice had to be taken to be validly served if delivered at the previous registered address prior to recording of change of address in records of the Registrar of Companies."

11. The Notice in this case was ordered by this Tribunal on 03.04.2019, despite various dates of hearing, there is no response given by the Corporate Debtor.
12. In this case the debt has been intimated in terms of Section 8 of the Code r/w Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 issued on dated 04.12.2018 annexed as P-7 at pg 71-136 and has duly been served. However, Respondent/Corporate Debtor is not disputing the same. The debt is due on 31.10.2017 and this application is well within time.
13. The Operational Creditor has relied on the documents in the present application is filed as follows:

"a) Annexure P-1:



Master Data of M/s Jones Lang LaSalle Building Operations Private Limited, the Operational Creditor.

b) Annexure P-2:

Master Data of M/s Celebration City. Projects Private Limited, the Corporate Debtor.

c) Annexure P-3:

Board Resolution dated 26.12.2017 of Operational Creditor Company.

d) Annexure P-4:

Computation of total amount of debt due and payable in form of the Operational creditor.

e) Annexure P-5:

True Copy of Letter of Intent for Property Management Services dated 13.04.2017.

f) Annexure P-6 (Colly):

TRUE COPIES OF Invoices not paid by the Corporate Debtor.

g) Annexure P-7:

Copy of Demand Notice dated 04.12.2018 sent by the Operational Creditor, along with its postal receipts and tracking report.

h) Annexure P-8:

True Copy of Form INC-22 dated 24.12.2018 uploaded by the Corporate Debtor on website of MCA.

i) Annexure P-9:

Certificate in compliance to Section 9(3)(b) of the Insolvency and Bankruptcy Code, 2016.

j) Annexure P-10:

Proof of specified Application Fee, for the present Application.

k) Annexure P-11:

Proof of dispatch and/or delivery of the present Application to the Corporate Debtor.

1) Vakalatnama.”

14. The debt and default has been established by the Operational Creditor against the Corporate Debtor in re-payment of the Operational Debt. The Petition filed under section 9 of the Code fulfils all the requirements of Section 9(5) of IBC, 2016. Therefore, the Petition deserves to be admitted. Hence, this authority is inclined to initiate the CIR Process of Corporate Debtor. Accordingly, the captioned petition is admitted.

15. This Tribunal hereby appoints Insolvency Professional namely, Mr. Amit Agarwal having Registration Number IBBI/IPA-002/IP-N00185/2017-8/10456 (Email ID- amitagcs@gmail.com) as Interim Resolution Professional to the Operational Creditor. The IRP is directed to take charge of the respondent corporate debtor's management immediately. He is also directed to make public announcement as

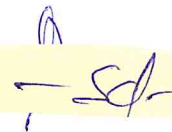


prescribed under section 15 of the IBC, 2016, within three days from the date of this order received, and call for submissions of claim in the manner as prescribed.

16. The Operational Creditor is directed to deposit Rs.2,00,000/- (Rs. Two Lakh only) with the IRP to meet the immediate CIRP expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.
17. The moratorium is declared which shall have effect from this Order till the completion of CIRP, for the purposes referred to in section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -
 - a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.
18. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended or interrupted during moratorium period. The provisions of sub-section (1) of section 14 of IBC, 2016 shall not apply to (a) such transactions as may be notified by the Central Government in consultation with any financial regulation; (b) a surety in a contract of guarantee to a Corporate debtor.



19. The IRP shall comply with the provisions of sections 13(2), 15, 17 and 18 of the Code. The directors of the Corporate Debtor, its Promoters or any person associated with the management of the corporate debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 for discharging his functions under section 20 of the IBC, 2016.
20. The operational Creditor is directed to send a copy of this Order to the IRP with immediate effect, so that he could take charge of the corporate debtor's assets etc., and make compliance with this order as per provisions of IBC, 2016.
21. The Registry is directed to serve a copy of this order on Registrar of Companies, Delhi & Haryana for appropriately updating the status of Corporate Debtor on Ministry of Corporate Affairs website for information of general public. The RoC as aforesaid shall then file a compliance report in this regard with this Adjudicating Authority.



**RAMALINGAM SUDHAKAR
(PRESIDENT)**



**NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)**