

Sw no. 282/2019

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR (COURT NO. I)

CORAM: MS. INA MALHOTRA,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

Company Petition No. (IB)-164/9/JPR/2019

(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:

M/s. Eltech Electro- Controls Pvt. Ltd.

...Operational Creditor/Applicant

VERSUS

M/s. Digicontrols Northern Private Limited

...Corporate Debtor/Respondent

For the Applicant : Joginder Kumar Chowdhery

For the Corporate Debtor: Prateek Kedawat, Adv.



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M/s. M/s. Eltech Electro- Controls Pvt. Ltd.
Versus
M/s. Digicontrols Northern Private Limited



MEMO OF PARTIES

M/s. Eltech Electro-Controls Private Limited

Shop No. 27, Plot No. 5, H Pocket Market
Sarita Vihar, New Delhi-110076

...Operational Creditor/Applicant

VERSUS

M/s. Digicontrols Northern Private Limited

Shop No. 46, Arcade Market
Omaxe Panaroma City, Alwar Road
Opposite Sizewark INK Company,
Bhiwadi- 301018, Rajasthan

...Corporate Debtor/Respondent

Order Pronounced On:11.10.2019

ORDER

Per: Shri Raghu Nayyar, (Technical Member)

1. This Application is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s. Eltech Electro-Controls Private Limited ('Applicant') claiming to be an Operational Creditor with a prayer for initiation of Corporate Insolvency



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Resolution Process ('CIRP') against M/s. M/s. Digicontrols Northern Private Limited ('Corporate Debtor').

2. The Applicant has filed this Application through the Authorised Representative of M/s. Eltech Electro-Controls Private Limited who is authorised vide Resolution of Board of Directors dated 03.06.2019.
3. The Corporate Debtor is a Private Limited Company, incorporated under the provisions of Companies Act, 1956 on 29.09.1987, duly registered with Registrar of Companies, Jaipur bearing CIN: U72100RJ1987PTC004108, and its Registered Office is located at, Shop No. 46, Arcade Market Omaxe Panaroma City, Alwar Road, Opposite Sizewark INK Company, Bhiwadi-301018, Rajasthan. The Authorized share capital of the Corporate Debtor is Rs. 41,00,000/- and Issued, Subscribed and Paid up share capital of the is Rs. 40,50,000/-.
4. It is the case of the Applicant that the Corporate Debtor has failed to pay an amount of Rs. 1,87,095.50/- in discharge of its liability arising out of supply of electronic items. It is submitted by the Operational Creditor that it had supplied 35 cheque collection Box @ Rs. 5000/- each with total amount of 1,75,000/- and issued a bill dated 06.05.2008 for an amount of Rs. 1,75,000/-. The Operational Creditor had also supplied 22 price computation machines @ of Rs. 2125/- per machine with total amount of Rs. 46750/- and 1034 packing for table top @ Rs. 14.13/- with total amount



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of Rs. 14612/- and issued a bill dated 06.05.2008 for an amount of Rs. 61,362/-.

5. The Operational Creditor has submitted the Corporate Debtor made part payments on 17.20.2008, 16.03.2009 and 18.03.2009, totalling to Rs. 49,266.50/- and the balance amount of Rs. 1,87,095.50/- has not been paid by the Corporate Debtor till date. It is submitted that the Operational Creditor had sent many reminder letters to the Corporate Debtor on 03.03.2011, 02.01.2013, 14.07.2015 and 03.10.2017. The Corporate Debtor had replied to the said letters by acknowledging the debt and expressing its financial difficulties.
6. The Operational Creditor has issued demand notice under Section 8 of the Insolvency and Bankruptcy Code for an amount of Rs. 1,87,095.50/- on the Corporate Debtor, which was duly received by Corporate Debtor. The Corporate Debtor has replied to the Demand Notice acknowledging the debt and sought more time to pay the outstanding debt. Therefore, the applicant filed the present application under section 9 of Insolvency and Bankruptcy Code, 2016.

The total amount claimed by the applicant as mentioned in Part IV is a sum of Rs. 1,87,095.50/- as an outstanding amount which is due and payable by the corporate debtor as described below:



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PART IV

Sr. No.	Particulars of Operational Debt	
1.	Total amount of debt, Details of Transactions Account of which debt fell due, and the date from which such debt fell due	Total Amount due and outstanding is Rs. 1,87,095.50/-
2.	Amount claimed to be in default and the date on which the default occurred	The total amount being claimed is Rs. 1,87,095.50/- Date of Default: 01.02.2018

8. The Corporate Debtor has filed its reply stating therein that the Operational Creditor has been supplying goods since 2004 and was being paid regularly. However, for the supplies made in May 2008, the Corporate Debtor could not pay due to recession in their industry. The debt has been periodically acknowledged by the Corporate Debtor in the interregnum and has not been barred by the limitation due to efflux of time, as the same has been re-confirmed by the Corporate Debtor within three year time interval. The Corporate Debtor has acknowledged in its reply that an amount of Rs. 1,87,095.50/- is outstanding and payable.



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9. In view of the reply of the Corporate Debtor, the claim stands established and the debt is admitted by the Respondent. There is a clear default in payment of the amount due to the Applicant.
10. Hence, this Tribunal is inclined to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
11. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of the Corporate Debtor is situated in Bhiwadi and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is also within the purview of Law of Limitation.
12. The Applicant has proposed the name of Mr. Ranjeet Kumar Verma to be appointed as Interim Resolution Professional ('IRP'). He is a qualified Resolution Professional with no IBBI restraint and has given his consent in Form 2 to act as IRP. In view of the same, this Tribunal appoints Mr. Ranjeet Kumar Verma, having Registration No. IBBI/IPA-002/IP-N00301/2017-18/10859, Mobile No.: 9999678009 and email address ranjeet@ranjeetcs.com, as the IRP of the Corporate Debtor. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20 and 21 of the IBC, 2016.

13. The consequences of initiation of CIRP shall be inter alia are as follows: -

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- (i) The Resolution Professional Mr. Ranjeet Kumar Verma, having Registration No. IBBI/IPA-002/IP-N00301/2017-18/10859, is hereby appointed as the IRP to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the Provisions of IBC, 2016, including the issue of publication in widely circulated newspapers, including one in English and one in vernacular in Jaipur and its hinterland, as contemplated under the Provisions of IBC, 2016 and calling for the claims from the creditors of the Corporate Debtor and collating of the same shall be done.
- (ii) Further as a consequence of admission, Moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during CIRP of the Corporate Debtor. The IRP shall carry out Corporate Insolvency Resolution Process strictly as per the timelines specified and as envisaged under the Provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly in compliance with the provisions of IBC, 2016. With a view to defray his expenses to be incurred and fees on account, the Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Two Lakh only) to the account of IRP within 3 days from the date of this order. The IRP shall duly file the status report appraising this Tribunal about the progress of CIRP unfolded in relation to the



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Corporate Debtor. In terms of Sections 17 and 19 of IBC, 2016 all personnel of the Corporate Debtor including its promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

- (iv) In terms of Section 9 of IBC, 2016 a copy of this order shall be communicated to the Operational Creditor, Corporate Debtor as well as the Interim Resolution Professional appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.

14. In the circumstances this Application i.e. CP No. (IB) 164/9/JPR/2019 is admitted.

Sd/-

SH. RAGHU NAYYAR,
TECHNICAL MEMBER

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Sd/-

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JUDICIAL MEMBER

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