

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1

(MP) CP(IB) 9 of 2020

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.09.2020

Name of the Company:

Deepak Chndak Proprieter of Harshal
Enterprises
V/s
Ujjas Energy Limited

Section:

9 of Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order. The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Dated this the 17th day of September, 2020

PC

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD**

CP (IB) No.09/9/NCLT/AHM/2020

In the matter of :

Deepak Chandak

Proprietor of M/s Harshal Enterprises

1326-B, Scheme No.71,

Indore- 452009

Madhya Pradesh

..Operational Creditor

Versus

M/s. UJAAS Energy Limited

CIN: L31200MP1999PLC013571

Survey No.211/1,

Opp: Sector-C & Metalman,

Sanwer Road,

Industrial Area,

Indore-452015 Madhya Pradesh.

..Corporate Debtor

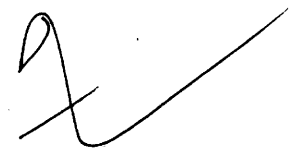
Order Pronounced on 17th day of September, 2020

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

Learned Counsel Mr. Aditya Parmar for the Operational Creditor.


Learned Counsel Ms. Nidhi Prajapati for the Corporate Debtor.



ORDER**[Per MADAN B. GOSAVI, MEMBER (J)]**

1. Deepak Chandak, Proprietor of M/s. Harshal enterprises filed this application under Section 9 of Insolvency and Bankruptcy Coded, 2016 against M/s. Ujaas Energy Limited, the Corporate Debtor to initiate Corporate Insolvency Resolution Process of Corporate Debtor on the ground that Corporate Debtor committed default in paying operational debt of Rs.18,67,008/-.

2. The Operational Creditor stated that he has rendered various services to the Corporate Debtor relating to civil work of installation of solar power plant of the Corporate Debtor for the period in between 14.12.2017 to 19.09.2019. He raised various invoices claiming service charges. He states that the amount of Rs.18,67,008/- is due and payable by the Corporate Debtor. In spite of repeated demands, Corporate Debtor failed and neglected to pay the amount. Hence, on 18.10.2019, he served on the Corporate Debtor notice of demand under Section 8 of Insolvency and Bankruptcy Code, 2016. Although, Corporate Debtor received the notice, did not pay the debt nor reply the notice pointing out any dispute. Since, the Corporate Debtor committed default in paying the operational debt, this application is filed to initiate Corporate Insolvency Resolution Process of the Corporate Debtor.



3. Notice of this application is duly served on the Corporate Debtor. One of its director, Mr. Anurag Mundra appeared in the proceeding and filed affidavit in reply. In para-3 of the Affidavit-in-Reply, he admitted the operational debtors claim in following words:

"3. The service of Operational Creditor was taken for a period of 12 months from 01.04.2018 till 30.09.2019, and for that the said service amount of Rs.18.67,008/- is due for payment. The Corporate Debtor could not make the balance payment of the above services due to slow down in business and liquidity and financial problems. The Corporate Debtor accepts the debt and that there has been delay on the part of Corporate Debtor to make payment due to financial crunches."

4. Since, the Corporate Debtor admitted both facts i.e operational debt of Rs.18,67,008/- is due and payable by them to the Operational Creditor and that they have committed default in paying the same, we have only to see whether this application is otherwise defect free. Whether notice under Section 8 of Insolvency and Bankruptcy Code, 2016 delivered to the Corporate Debtor as it is sine-qua-non to maintain this application and whether the Operational Creditor has complied the provision of Section 9(3)(c) of the Insolvency and Bankruptcy Code, 2016.

5. We perused the record. We find that notice of demand under Section 8 of the Insolvency and Bankruptcy Code, 2016 was delivered to the Corporate Debtor by way of hand delivery and proof is produced at page no.110. The Operational Creditor filed on record statement of his bank account to show that he did not receive the amount claimed from the

Corporate Debtor. This fact is otherwise not in dispute. He has also submitted the affidavit stating that he did not receive the reply from the Corporate Debtor pointing out pre-existing dispute and he thereby complied the provision of Section 9(3)(b) and 9(3)(c) of Insolvency and Bankruptcy Code, 2016. The Operational Creditor suggested the name of one Mr. Navin Khandelwal, having Registration No. IBBI/IPA-001/IP-P00703/2017-2018/11301 for appointment as Interim Resolution Professional against whom, no disciplinary proceeding is pending. The application is defect free. Hence, we admit the same and order as under:

ORDER

1. Corporate Debtor M/s. Ujaas Energy Limited. is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
 - (a) 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;
 - (b) transferring, encumbering, alienating or disposing of by the corporate debtor 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 corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.


3. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
4. We hereby appoint Mr. Navin Khandelwal having Registration No. IBBI/IPA-001/IP/P00703/2017-2018/11301 to act as an IRP under Section 13(1) (c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:
5. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person


associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

6. This Adjudicating Authority direct the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
7. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
8. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of Rs. 50,000/- (Rupees Fifty Thousand

Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

9. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.
10. Accordingly, CP(IB) No. 09/9/NCLT/INDORE/2020 is allowed.
11. The matter to be listed on 03.11.2020 for further consideration.


(Virendra Kumar Gupta)
Member (Technical)


(Madan Bhalachandra Gosavi)
Member (Judicial)

Signed on this, the 17th day of September, 2020.