

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

CP/885/IB/2018

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. MPL Cars Private Limited

Mrs. S.P Saraswathi

---Operational Creditor

V/s

M/s. MPL Cars Private Limited

---Corporate Debtor

Order delivered on: 13.08.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Mrs. Ambili Menon, Advocate*
Ms. Swapna, Advocate

For the Corporate Debtor : *Shri. Ramalingam, Advocate*
For M/s. KNS Law Chambers

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and Dictated in Open Court on 08.08.2019

It is a Company Petition filed u/s.9 of the Insolvency and Bankruptcy Code, 2016 ("the Code") for initiation of Corporate Insolvency and Resolution Process (CIRP) against the Corporate



Debtor on the ground the Corporate Debtor defaulted in paying ₹6,85,327 as on 09.04.2018.

2. On perusal of this Company Petition, it appears that this Operational Creditor has given its property on rent to the Corporate Debtor, since the Corporate Debtor failed to pay the rentals to the Operational Creditor, the Operational Creditor has filed this case for initiation of CIRP against the Corporate Debtor. The debt remained outstanding against the Corporate Debtor towards the rentals is as follows:

<i>Date</i>	<i>Amount</i>
07.03.2017	₹47,925
07.04.2017	₹47,925
07.05.2017	₹47,925
07.06.2017	₹47,925
07.07.2017	₹47,925
07.08.2017	₹47,925
07.09.2017	₹47,925
07.10.2017	₹47,925
07.11.2017	₹47,925
07.12.2017	₹47,925
07.01.2018	₹47,925
07.02.2018	₹47,925
07.03.2018	₹47,925
07.04.2018	₹47,925
09.04.2018	₹14,377
<i>Total</i>	₹6,85,327

3. To prove that an amount of ₹6,85,327 has remained due, the Operational Creditor counsel has taken us through an email dated 14.06.2018 come from Mr. S. P. Surendaranath Karthik, which is as follows:

Dear Mr. Shankaran / Mr. Gowthama Shankar,

With reference to the subject matter, as per lease agreement dated 01-02-2012, I hereby acknowledge takeover of vacant possession of my subject land on 09-04-2018 from you through Mr.Sivakumar.

As on 09-04-2018 after adjusting security deposit lying with me the total rental dues payable by you amounts to Rs.6,85,327 as detailed below:

Rent from 01-02-2017 to 31-03-2018 @ 47,925/- per month

*[47925*14] = Rs. 6,70,950/-*

*Rent from 01-04-2018 to 09-04-2018 [74,925/30 * 9]= Rs. 14,377/-*

Total = Rs. 6,85,327/-

During the above said period you have been using my premises as determined in the lease agreement dated 01-02-2012 and last of your vehicle (cars) parked by your company were removed on 09-04-2018 by Mr. Sivakumar who handed over physical possession to me.

Kindly acknowledge receipt of this email and arrange to pay the rental dues as detailed above without any further delay.

Thanks and Regards

*S P Surendaranath Karthik
+919841013363*

4. Thereafter, when there is no reply to the email sent by the Operational Creditor, this Operational Creditor has sent Section 8 notice dated 22.05.2018 to the Corporate Debtor demanding payment of arrears of rent for the Corporate Debtor has not paid nor even given reply to the Section 8 notice, therefore this Operational Creditor has filed this case.

5. On hearing the submissions of either side, since it is apparent on record that the Corporate Debtor availed services of the Operational Creditor by using their land and not paying rent as agreed between them, we are of the view that this Operational Creditor has proved the existence of debt and default and the Corporate Debtor has not raised any dispute between the parties in relation to the payment of rent to the Operational Creditor. The Operational Creditor has filed an affidavit giving an undertaking to pay the remuneration to the IRP and to make payment towards public announcement and other expenses until constitution of the

CoC. Therefore, we hereby admit this Company Petition by appointing Ms. Priya S. Anand as IRP with directions as follows:-

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 (SARFAESI Act);

(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.



- (ii) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (iv) That the order of moratorium shall have effect from **08.08.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- (v) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby appoints **Ms. Priya S. Anand as Interim Resolution Professional (Reg. No. IBBI/IPA-001/IP-P00421/2017-2018/10744), E-mail: priyaanand@yahoo.co.in,**

Mobile No: 9865082349 with her consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

6. Accordingly this petition is **hereby admitted**.
7. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

SR/TJS

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)