

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-2**

CP (IB) No. 150/NCLT/AHM/2020

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

**MG Well Solutions Project International
Private Limited**

**Applicant/
Operational Creditor**

Versus

Sintex Oil & Gas Limited

**Respondent/
Corporate Debtor**

Order Pronounced on: 21/ 12/2021



Coram:

**Dr. Deepti Mukesh, Hon'ble Member (Judicial)
Kaushalendra Kumar Singh, Hon'ble Member (Technical)**

MEMO OF PARTIES

MG Well Solutions Project International Private Limited

MIG No. 15, New PP Colony
Gwarighat Road
Jabalpur 482 008
Madhya Pradesh

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**Applicant/
Operational Creditor**

Versus

Sintex Oil & Gas Limited

Abhijeet – 1, 7th Floor,
Mithakhali Six Roads
AHMEDABAD 380 006

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**Respondent/
Corporate Debtor**

Appearance:

For applicant : Learned PCS Mr. Manish Buchasia

For respondent : Learned counsel Mr. Tirth Nayak

ORDER

Per: Dr. Deepti Mukesh, Member (J)

1. This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by **MG Well Solutions Project International Private Limited**, through Mr. Ranveer Singh Bawa, Managing Director, who is duly authorised via General Power of Attorney dated 25.02.2010 (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency



Process against **Sintex Oil & Gas Limited** (for brevity 'Corporate Debtor').

2. The Applicant is a private limited company, incorporated under the provisions of Companies Act, 1956 having CIN U74220MP2005PTC022015 and having registered office at Jabalpur, Madhya Pradesh. The Applicant is engaged in construction of road and drain works.
3. The corporate debtor is a Limited Company, incorporated under the provisions of companies Act, 1956 on 07.01.2008, duly registered with Registrar of Companies, Ahmedabad with CIN: U23300GJ2008PLC052581 and having registered office at Ahmedabad, Gujarat State. The Authorized share capital of the Respondent is Rs. 1,00,00,000/- and Paid up share capital of the company is Rs. 25,03,000/-. The Corporate Debtor is engaged in oil and gas exploration business.
4. It is submitted by the applicant that it had entered into a contract with the respondent for cement squeeze job and well cementing services. That on receipt of mobilization notice from the corporate debtor dated 20.04.2015, the applicant had confirmed the cement squeeze job on 07.05.2015 and subsequently raised invoice for the calendar month May, 2015 as per the contractual terms. That in

pursuance of the contractual provisions, the applicant had raised invoices as there is a specific provision in the contract which states that "for the entire duration of the contract, in lieu of which, respondent in turn, will ensure to pay and cover the contractor with a minimum of one primary Casing Cementation job per each calendar month". Accordingly, the applicant mobilized cementing supervisor/ engineer at the proposed site, air tickets were booked for travel purpose, however, the corporate debtor telephonically cancelled the job. That the applicant had raised two invoices dated 27.10.2015 and 02.11.2015 for additional set of equipment used for the second well at another location which were originally not covered in the contractual scope of work, but, on the basis of e-mail received from the corporate debtor, the applicant completed three Squeeze Jobs at the second location with due approval from the corporate debtor. That the unpaid contractual dues are as per the statement annexed to the application.

5. That demand notice in Form 3 dated 01.08.2019 under the provisions of the IB Code was sent to the corporate debtor, however, the corporate debtor neither paid the dues nor raised any dispute. As per the master data annexed to the application, the demand notice sent by speed post was delivered at the registered office of the corporate debtor. As a proof of service, copy of track

report annexed to the application shows that the notice was delivered at the registered office of the respondent on 03.08.2019.

6. The application is filed under Section 9 of the Code claiming an amount of Rs. 45,62,147/- (Rupees forty-five lacs sixty-two thousand one hundred forty-seven only) and the said application was duly served at the address as per master data filed by the applicant.
7. The corporate debtor filed affidavit in reply inter alia stating that
 - i) that the transaction in question are old in nature and none of the persons who were working at the relevant point of time are presently working with the corporate debtor, therefore, the deponent and the corporate debtor is unable to state anything in respect of the facts;
 - ii) that there are various pre-existing disputes in respect of the debt which are pending and the communications in that regard has been suppressed by applicant;
8. The rejoinder is not filed by applicant.
9. As per Form 5, part IV of the application the corporate debtor is liable to pay an outstanding of **Rs. 45,62,147/- (Rupees forty-five lacs sixty-two thousand one hundred forty-seven only)**.

10. The debt has fallen due on 22.11.2016 i.e. after 30 days from the date of last invoice as stipulated in each invoice. Hence the application is well within limitation and not barred by law.


9. The registered office of the corporate debtor is situated in Ahmedabad and, therefore, this Tribunal has jurisdiction to entertain and try this application.

10. Heard submissions and perused the documents on record. On perusal of the records it is observed that the applicant had sent several e-mails during the year 2018 requesting the corporate debtor to clear the operational debt. Moreover, ledger account of the corporate debtor in the books of operational creditor shows that operational debt is due and payable by the corporate debtor. That no evidence by way of documents brought on record by the corporate debtor in support of its claim that there is a pre-existing dispute with regard to quality/quantity of the work. There is no defence raised with respect to maintainability of the application.

11. In the given facts and circumstances, the present application is complete and the applicant is entitled to claim its dues. The present

application is admitted in terms of Section 9 (5) of the IB Code, 2016.

12. The applicant operational creditor has not proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Nimai Gautam Shah, having Registration No: IBBI/IPA-001/IP-P00154/2017-18/10323 and having Email Address: enjabd@gmail.com** to act as an IRP under Section 13(1) (c) of the CODE subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Corporate debtor and specific consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.

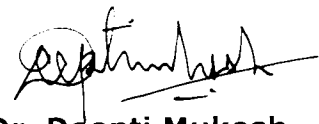
-  13. We direct the applicant Operational Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Nimai Shah to meet out the expenses to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations,

2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

14. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.
15. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.



Kaushalendra Kumar Singh
Member (Technical)



Dr. Deepti Mukesh
Member (Judicial)

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