



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

**CP(IB) 453 of 2019**

**COURT -1**

Order under section 9 of IBC, 2016

**IN THE MATTER OF:**

Panda Water Tech Pvt Ltd

**..Applicant**

Rudrasiva Infracon Pvt Ltd

**...Respondent**

Order delivered on 31/05/2022

**Coram:**

Madan B. Gosavi, Hon'ble Member (J)

Kaushalendra Kumar Singh Member (T)

**PRESENT:**

For the Applicant: Advocate Ms. Mary Mac

**ORDER**

(Under Rule 154 of NCLT Rules, 2016)

The matter was heard and pronounced in the open court on 31/05/2022. However, we have noted typographical errors and omission in narrating facts. Hence, by invoking provision under Rule 154 of the National Company Law Tribunal Rules, 2016, corrections are carried out and the amended order be uploaded.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.84  
CP(IB) 453 of 2019

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Panda Water Tech Pvt Ltd  
V/s  
Rudrasiva Infracon Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on ..31/05/2022**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant : Advocate Mary Mac  
For the Respondent :

**ORDER**

The matter is listed today for pronouncement of the order.

The order is pronounced in the open court, vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**CP (IB) No. 453 of 2019**

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

In the matter of:

**Panda Water Tech Pvt. Ltd.**

(CIN: U4100GJ2002PTC040962)

Having office at;

Plot no. 38/1, Panchratna Industrial Estate,  
Sarkhej-Bavla Highway, Ahmedabad - 382443

**..Operational Creditor**

**Versus**

**Rudrasiva Infracon Private Limited**

(CIN: U74999GJ2018PTC101025)

Having office at;

D-902, Titanium Square,  
Thaltej Cross Road,  
Ahmedabad – 380054

**...Corporate Debtor**

**Order reserved on 10.05.2022**

**Order pronounced on 31.05.2022**

**Coram: Madan B. Gosavi (Member Judicial)**

**Kaushalendra Kumar Singh (Member Technical)**



**Appearance:**

Advocate Ms. Mary Mac appeared for the Applicant

**ORDER**  
**[PER BENCH]**

1. The present application is filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as “**IBC 2016**”) by Operational Creditor Panda Water Tech Pvt. Ltd. to initiate the Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against Corporate Debtor Rudrasiva Infracon Pvt Ltd. for the default principal amount of Rs. 80,00,000/- and interest of Rs. 4,77,851/- thereon totalling to Rs. 84,77,851/-.
2. The brief facts of the case are that the Operational Creditor is engaged in the business of dealing in water plant machines. The Corporate Debtor purchased plant and machineries from the Operational Creditor between the duration of 05.06.2018 to 29.03.2019. The Operational Creditor has stated that it had a running account with the Corporate Debtor and had issued various invoices between 23.08.2018 to 15.02.2019. The Operational Creditor had received part payment of Rs. 5,46,85,000/-. The amount of Rs. 80,00,000/- remained outstanding as against the bill dated 08.02.2019 and 15.02.2019. The Corporate Debtor had given a cheque of Rs. 80,00,000/-



which was deposited in the bank but the same was dishonored. The Corporate Debtor failed to make the payment of the aforesaid outstanding amount even after several requests and reminders made by the Operational Creditor for the said outstanding amount.

- 3.** The Operational Creditor, thereafter sent a demand notice dated 20.04.2019 to the Corporate Debtor under section 8 of IBC 2016 read with rule 5 of IBBI (Application to the Adjudicating Authority) Rules, 2016 (hereinafter referred to as “**AA Rules**”) in form 3 which was duly delivered to the Corporate Debtor on 30.04.2019. However, no reply has been made by the Corporate Debtor for the said demand notice.
- 4.** Since the Corporate Debtor has failed to repay the default amount to the Operational Creditor, the Operational Creditor has filed this present application for initiation of CIRP on 26.06.2019 before this Adjudicating Authority.
- 5.** The Corporate Debtor has filed reply dated 26.08.2019 to the present application. The counsel for Corporate Debtor submitted that the Corporate Debtor had entered into joint venture contract with the Operational Creditor to get tender from IRCTC for supply of water “Rail Neer”. Further, it is submitted that the Corporate Debtor has legal dues outstanding against the baby concern of the Operational Creditor named J.R. Beverages Pvt Ltd. However, the



Operational Creditor is trying to settle the claim from the Corporate Debtor by filing this present application. The Corporate Debtor has also submitted that the present application has been filed in order to claim illegitimate and disputed amount against the work which the Corporate Debtor got completed through other agencies. The Corporate Debtor has also stated that dispute with respect to quality of plant and machinery has been raised in e-mail dated 11<sup>th</sup> December, 2018, 29<sup>th</sup> January, 2019 and 30<sup>th</sup> January, 2019.

- 6.** The Operational Creditor in his rejoinder dated 18.02.2020 has stated that the Corporate Debtor has not raised any dispute with respect to quality of plant and machineries. It is submitted that the Corporate Debtor had procured plant and machinery from the Operational Creditor for a considerable amount. Further, it is submitted by the Operational Creditor that it is an undisputed fact that the Corporate Debtor is the consignee of the machines and the machines are delivered directly to the Corporate Debtor.
- 7.** We have heard the learned counsel of the Operational Creditor as well as the Corporate Debtor and perused the material on record. It has been noted that an amount of Rs. 80,00,000/- is still outstanding even after the last part payment made on 05/03/2019. Further, the Corporate Debtor has not attached any evidence to the objection that the Corporate Debtor is having legal



dues pending against the baby concern named J.R. Beverages Pvt Ltd. of the Operational Creditor and not against the Operational Creditor i.e. Panda Water Tech Pvt Ltd. Also, the Corporate Debtor in e-mail dated 29<sup>th</sup> January, 2019 has requested the Operational Creditor to co-operate and complete the supply and installation work.

8. The present application is defect-free and complies with all the relevant provisions of the IBC 2016. The Operational Creditor has not proposed the name of Interim Resolution Professional (hereinafter referred to as “**IRP**”) in the application, therefore we appoint Mr. Dhaval C Khamar having registration No. IBBI/IPA-001/IP-P-02574/2021-2022/13944 as IRP. In view of the above observations the present application is allowed with the following directions;

### **ORDER**

1. The Corporate Debtor Rudrasiva Infracon Private Limited is admitted in CIRP under section 9 of IBC, 2016. The moratorium is declared for prohibiting all of the following in terms of section 14(1) of IBC 2016.

- (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.*
- 2.** The order of moratorium shall have effect from the date of this order till the completion of CIRP or until this Adjudicating Authority approves the Resolution Plan under section 31(1) or passes an order for liquidation of Corporate Debtor under section 33 of IBC 2016, as the case may be.
- 3.** The Operational Creditor has not proposed the name of IRP in the application, therefore we appoint Mr. Dhaval C Khamar having registration No. IBBI/IPA-001/IP-P-02574/2021-2022/13944 and registered mail ID [ca.dhavalkhamar@gmail.com](mailto:ca.dhavalkhamar@gmail.com) as IRP.
- 4.** The IRP shall perform all functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnels connected with the Corporate Debtor, its Promoter, or any other person associated with management



of the Corporate Debtor are under a legal obligation under section 19 of IBC 2016 to extend every assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with the IRP, do not assist or co-operate, IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- 5.** This Adjudicating Authority directs the IRP to make a public announcement for initiation of CIRP and call for submission of claims under section 15 as required by section 13(1) (b) of IBC 2016.
- 6.** It is further directed that the supply of goods/service to the Corporate Debtor Company continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- 7.** The IRP shall be duty-bound to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern as a part of an obligation imposed by section 20 of IBC, 2016.
- 8.** The Operational Creditor is directed to pay an advance of Rs. 50,000/- to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of CIRP and IRP to file proof of receipt of such amount to this Adjudicating



Authority along with First Progress Report.

9. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor, and the IRP and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order.
10. Accordingly, **CP (IB) No.453 of 2019** is admitted and disposed of.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Shweta Desai