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IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

IBA/15/2020

(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of ***M/s. Z-Oil Networks Pvt. Limited***

M/s. Micro Village Communications Pvt. Ltd.,
Plot No.44, Ground Floor, Ravi Colony,
2nd Street, St. Thomas Mount, Cantonment Area,
Chennai – 600 016

... Operational Creditor

-Vs-

M/s. Z-Oli Networks Private Limited,
Regd. Office : 528, T.T.K. Road, Alwarpet,
Teynampet, Chennai – 600 018.

... Corporate Debtor

Order pronounced on 2nd September 2021

CORAM :

R.SUCHARITHA, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Operational Creditor : Krishna Ravindran, Advocate

ORDER

Per: **R.SUCHARITHA, MEMBER (JUDICIAL)**

The Present Application is filed by an Operational Creditor viz., M/s. Micro Village Communications Pvt. Ltd. under Section '9' of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC, 2016) before this Tribunal on 12.09.2019 seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor viz., M/s. Z-Oli Networks Private Limited.

2. From Part – I of the Application, it is seen that the Operational Creditor is a Private Limited Company. Part – II of the Application discloses the details of the Corporate Debtor, from which it is seen that the Corporate Debtor is also a Private Limited Company which was incorporated on 28.03.2017 and the registered office address of the Company is stated to be situated at No.528, T.T.K. Road, Alwarpet, Teynampet, Chennai 600 018. From Part – III of the Application is seen that the Operational Creditor has not proposed the name of the IRP and left it to the discretion of this Tribunal to appoint the same.

3. From Part IV of the Application it is seen that the Operational Creditor has claimed a sum of Rs.1,10,330/- which is due and payable by the Corporate Debtor and the date of default is mentioned as 30.12.2017. The Operational Creditor, in order to prove the 'operational debt'; has annexed the following documents

i. Purchase order
ii. Invoice
iii. Cheque for Rs.1,10,330/-
iv. Cheque return memo
v. E-mail communication on various dates.

4. Learned Counsel for the Operational Creditor submits that based on the purchase order issued by the Corporate Debtor, the Operational Creditor had supplied GRANDSTREAM UCM6510 with license to the Corporate Debtor and accordingly, the Operational Creditor had raised the Tax Invoice to the tune of Rs.2,20,660/-. Out of the said amount, it is seen that a part amount has been paid and for the remaining amount, the Corporate Debtor had issued a cheque to the tune of Rs.1,10,330/- to the Operational Creditor. However, the said cheque upon presentation, has been returned with an endorsement "DRAWERS SIGNATURE TO OPERATE ACCOUNT NOT RECEIVED". Under such circumstances, the Learned Counsel for the Operational Creditor has stated that the Corporate Debtor has committed a default in payment of the dues in relation to the Operational Creditor and hence sought for initiation of the CIRP against the Corporate Debtor.

5. In relation to the Corporate Debtor, it is seen from the records that the notice had been issued to the Corporate Debtor, however, the same had been returned with an endorsement 'unclaimed'. However, this Tribunal vide its order dated 11.02.2021, directed the Operational Creditor to send a fresh notice of this Application through an e-mail ID as reflected in the master data. Accordingly, it is seen that the Operational Creditor

by way of a memo dated 12.04.2021 has submitted that they had tried to serve the notice to the Directors of the Corporate Debtor based upon the e-mail found in the master data, however, since the addresses of the Directors are not reflected in the master data of the Corporate Debtor, they were unable to comply with the order passed by this Tribunal in this regard. Under such circumstances, we are constrained to initiate CIRP against the Corporate Debtor.

6. Heard the submissions of the Learned Counsel for the Operational Creditor. From the Application filed, it is seen that the Operational Creditor has enclosed a Demand Notice which has been sent to the Corporate Debtor on 24.04.2019. However, the Operational Creditor has failed to enclose the proof of the same being delivered to the Corporate Debtor. Further in the affidavit filed under Section 9(3)(b) of IBC, 2016, it has been stated that the Demand Notice has been served on the Corporate Debtor, however it does not disclose any detail as to when the Application was delivered or whether the said Application has been returned to the Operational Creditor or not. In the absence of the proof of delivery of the Demand Notice to the Corporate Debtor, we are of the view that the present Application filed under section 9 of IBC, 2016 is not maintainable. Since the proof of Delivery of the Demand Notice to the Registered Office address of the Corporate

Debtor is not established by the Operational Creditor, the present Application filed by the Operational Creditor under Section 9 of IBC, 2016 is not maintainable.

7. Under the said circumstances, we hold that the Operational Creditor has failed to comply with the mandatory compliance made under Section 8(1) of IBC, 2016 and hence the present Application filed under section 9 IBC, 2016 is liable to be dismissed and accordingly stands **dismissed,** however without costs.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Raymond