

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(through Web-Based video conferencing platform)

I.A No.119/BB/2023 in
CP (IB) No. 60/BB/2020

IN THE MATTER OF:

SourcePro Service,
Registered Office at:
#25, 3rd Floor, Lakshmi Complex,
Opp. Prasiddi Hotel,
Near IG Circle,
JP Nagar I Phase,
Bangalore 560 078.

... Applicant/Operational Creditor.

Versus

Mr. Vinay Mruthyunjaya
Resolution Professional
Metrik Infraprojects Private Ltd.
Registered Office at :
Solus Building Floor,
11th Floor, No. 2, 1ST Cross,
J C Road,
Bangalore 560 027.

... Respondent/Resolution Professional.

Order delivered on: 08th September, 2023

Coram: Hon'ble Justice (Retd) T. Krishnavalli, Member (Judicial)
Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

PRESENT:

For the Petitioner : K.J Bojanna

For the Respondent : Shri A.S Vishwajith

ORDER

Per: Manoj Kumar Dubey, Member (Technical)

1. The Present petition is filed on 19.12.2022 by Operational Creditor of the Corporate Debtor under section 60 (5) (a) of the IBC, 2016 interalia

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seeking this Tribunal to direct the Resolution Professional to approve the entire claim of the Operational Creditor, SourcePro Solutions dated 16.06.2022 in Form B submitted vide email dated 17.06.2022.

2. It is submitted by the applicant that it had filed a recovery suit in Commercial OS 154/2020 before the City Civil and Sessions Judge at Bengaluru against the Corporate Debtor for recovery of money of Rs. 34,71,638/- along with interest at 9% per annum until entire amount is paid by the Company to the Applicant. The Hon'ble Court vide Judgment and decree dated 22.04.2021 allowed the suit filed the Applicant.
3. However, the Resolution Professional after reconciling the claim made by the Applicant, admitted the claim provisionally as Operational Debt for amount of Rs. 30,42,927/- only as against the claim of Rs. 31,41,753/- which includes TDS of Rs. 91,091/-. It is submitted that the Resolution Professional failed to look into the interest and other costs amounting to Rs. 10,94,464/- relating to the order passed by the Hon'ble City Civil and Sessions Court.
4. The Resolution Professional filed its statement of objection submitting that the claim amount submitted by the Applicant was filed relying on the order passed by the Hon'ble Commercial Court in Comm OS 154/2020. The Hon'ble Commercial Court passed the order on 22.04.2021. The CIRP against the Corporate Debtor had commenced on 16.07.2021 and there was a moratorium imposed by this Tribunal against all suits and proceedings pending against the Corporate Debtor.
5. Therefore, it is stated that the Commercial Court could not have passed such an order asking the Corporate Debtor to pay interest, cost of the suit, execution cost and advocate fee when there was a moratorium subsisting against the Corporate Debtor. Considering that the order was passed by the Hon'ble Commercial Court during the moratorium, the respondent did not consider the interest, cost of the suit, execution cost and advocate fees over and above the principal amount of debt. Further, as per the records of the Corporate Debtor, the total outstanding dues towards the Applicant was Rs. 30,42,927 till the date

of commencement of CIRP. Thus, only an amount of Rs. 30,42,927/- was admitted.

6. Heard both the counsels and perused the records available.
7. It is a settled position in law that once moratorium is imposed under section 14 of the IBC, 2016 it prohibits 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.
8. The insolvency proceedings against the Corporate Debtor was initiated on 16.04.2021 and hence moratorium was imposed on this date. The Commercial Court passed the order on 22.04.2021, which is Post commencement of CIRP against the Corporate Debtor and the Court, in addition to the Principal amount of debt, has also directed the Corporate Debtor to pay interest, cost of the suit, execution cost and advocate fees.
9. It is observed that these additional cost imposed by the Commercial Court is against the moratorium imposed by this Tribunal. Hence, it is concluded that the Resolution Professional has not erred in admitting the only Rs. 30,42,927/- which is the amount outstanding till the date of commencement of the CIRP.
10. Hence **I.A No. 119 of 2023** filed by the Applicant for direction to the resolution professional to approve the entire claim of the Applicant is hereby **dismissed**.

-Sd-

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

-Sd-

(T. KRISHNAVALLI)
MEMBER (JUDICIAL)