

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

C.P. No. 2918/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Chirag Nakrani

Room No. 8<sup>th</sup>, Amba Ashish Building Road

No.10, Daulat Nagar, Borivali (East),

Mumbai-400066.

.... Petitioner

V/s.

Lusterleaf Infotech Private Limited

Shop No. 003, Ground Floor, Pooja Nagar,

Building No.2 CHS Ltd., Cabin Cross Road,

Bhayander East, Thane-401107.

...Corporate Debtor

Order delivered on: 04.11.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: CS Varada Bhide i/b Sanam Umbargikar

For the Corporate Debtor: PCS Maithili Nandedkar

*Per: V. Nallasenapathy, Member (Technical)*

ORDER

1. This company Petition is filed by Chirag Nakrani (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Lusterleaf Infotech Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default on 18.10.2018 in making payment to the extent of Rs. 9,26,305/-, the principal being Rs. 8,25,000/- and interest of Rs. 1,01,305/-, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The petition reveals that the Petitioner and the Corporate Debtor entered in to a software development agreement on 12.06.2018. On 13.06.2018 the Corporate Debtor issued a purchase order of Rs. 8,25,000/- to the Petitioner for the development of software. The Petitioner developed and delivered the software in terms of the Purchase Order and raised invoice dated 18.09.2018 for Rs. 8,25,000/- on the Corporate Debtor.

3. Despite several requests made by the Petitioner, the Corporate Debtor failed to clear its dues. Thus, on account of non-payment of the outstanding dues, the Petitioner has issued demand notice on 25.06.2019 demanding a principal sum of Rs. 9,26,305/- which is inclusive of interest @18%p.a. due to the delay in payment. There was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

4. The Corporate Debtor filed its reply and at para 5 mentioned as follows:

*"I say that Corporate Debtor accepts the liability towards operational creditor; but due to problems stated above, Corporate Debtor is unable to pay the operational creditor"*

5. Heard both sides. The professional appearing on behalf of the Corporate Debtor admitted the liability and default, hence the petition deserves admission.

6. This Bench having been satisfied with the application filed by the Petitioner which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

(a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

(b) 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.

(c) 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.

(d) that the order of moratorium shall have effect from 04.11.2019 till the completion of the CIRP 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.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Bhavesh Mansukhbhai Rathod, residing at A/101, Shelter CHSL, CSC road, Opp. Shakti Nagar Dahisar East, Mumbai-400068; having Registration No. IBBI/IPA-001/IP-PO1200/2018-2019/11910 as Interim Resolution Professional to carry the functions as mentioned under the Code.

7. Accordingly, this Petition is admitted.

8. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-  
V. Nallasenapathy  
Member (Technical)

SD/-  
Suchitra Kanuparthi  
Member (Judicial)