

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO.5. MUMBAI BENCH

C.P. No. 4346/I&B/2019

Under section 8 & 9 of the IBC, 2016
In the matter of

Siddhesh Kosabe Proprietor of Ammu
Enterprises
B-105, Building No.R-5, MMRDA
Colony, Subhash Nagar Road, Near
Hanuman Mandir, Nahur (W), Mumbai-
400078

.... Petitioner

V/s.

KCG Engineers Private Limited
Gate No. 390/1/2, Grampanchayat
Shiroli Pulachi, Tal- Hatkanangale,
Kolhapur, Maharashtra-416112

.... Corporate Debtor

Order delivered on: 20.01.2020

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Mr. Mehul Thakker Adv.
For the Corporate Debtor: Mr. Kevin Gala Adv.

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER

1. This company Petition is filed by Mr. Siddhesh Kosabe Proprietor of Ammu Enterprises (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against KCG Engineers Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the extent of Rs.4,36,600/-, 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 is the small Enterprises registered under the Ministry of Micro, Small and Medium Enterprises, engaged in providing maintenance and repairs of computers in the States of Maharashtra and Gujarat. The Petitioner entered into the service contract with the Corporate Debtor on 06.03.2018 and provided computer maintenance services to the Corporate Debtor and raised an invoice on 09.04.2019 for a sum of Rs.4,36,600/- which remains unpaid till date.

3. Despite several requests made by the Petitioner, the Corporate Debtor failed to clear its dues. Thus, on account of non-payment of outstanding dues, on 01.11.2019, the Petitioner issued Demand Notice, under Section 8 of the Code, demanding a sum of Rs.4,36,000/-. However, 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 the reply and submits that the Corporate Debtor accepted the liability as well as the default and submits that they are in some financial difficulty.

5. On hearing the counsel for the Petitioner and Corporate Debtor and ongoing through the Form-5 filed by the Petitioner and the related materials, this Bench is of the view, that the Corporate Debtor committed default in making payment to the Petitioner and hence this petition deserves admission.



6. One Mr. Neehal Mahamul Pathan, residing at Plot No 27, R. S No. 825, Sahjeevan Parisar, Near TPM Church Behind Circuit House, Kolhapur 416003; having Registration No. IBBI/IPA-001/IP-P01561/2018-19/12406 having email id ca.neehal@gmail.com has given his consent in Form No. 2 to act as an Interim Resolution Professional.

7. This Bench having been satisfied with the petition filed by the Petitioner which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this petition 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 20.01.2020 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. Neehal Mahamulal Pathan, residing at Plot No 27, R. S No. 825, Sahjeevan Parisar, Near TPM Church Behind Circuit House, Kolhapur 416003; having Registration No. IBBI/IPA-001/IP-P01561/2018-19/12406 having email id ca.neehal@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.

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)



Certified True Copy
Copy Issued "free of cost"
On 28.01.2020

Assistant Registrar
National Company Law Tribunal Mumbai Bench