

**THE NATIONAL COMPANY LAW TRIBUNAL  
“CHANDIGARH BENCH, CHANDIGARH”  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)  
(Arguments through web-based video conferencing platform)**

**CP (IB) No. 493/Chd/Hry/2019**

**Under Section 9 of Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

**Renu Mahajan**

W/o late Shyam Mahajan,  
R/o House No. 2079, Sector-28,  
Faridabad, Haryana-121008

...Petitioner-Operational Creditor

Vs.

**SRS Knowledge and Technology Pvt. Ltd.**

through its Managing Director,  
having its registered office at  
SRS Multiplex, Top Floor City Centre,  
Sector 12 Faridabad, Haryana-121007  
CIN No. U74140HR2005PTC048526

...Respondent-Corporate Debtor

**Judgement delivered on: 23 .12.2022**

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)  
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Petitioner-

Operational Creditor : Ms. Sapna Randhawa, Advocate, proxy counsel  
for Mr. Himanshu Raj, Advocate

For the Respondent-

Corporate Debtor : Proceeded *ex parte* vide order dated 28.01.2021

**Per: Harnam Singh Thakur, Member (Judicial)**

**JUDGMENT**

The present petition is filed, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**for brevity 'IBC' / 'Code'**), by **Ms. Renu Mahajan, (for brevity 'Operational Creditor' / 'Petitioner')**, with a prayer to initiate Corporate Insolvency Resolution Process (**CIRP**) in case of SRS Knowledge And Technology Pvt. Ltd. (**for brevity 'Corporate Debtor' / 'Respondent'**).

2. The Corporate Debtor, namely, SRS Knowledge And Technology Pvt. Ltd., is a Company incorporated on 18.11.2005 under the provisions of Companies Act, 1956 with CIN No. U74140HR2005PTC048526 with its registered office at SRS Multiplex, Top Floor City Centre, Sector 12 Faridabad, Haryana-121007. Hence, the territorial jurisdiction lies with this Adjudicating Authority. Copy of master data of corporate debtor is attached with the main petition and marked as Annexure P-1.

3. The facts of the case, briefly, as stated in the petition are that the operational creditor's husband purchased commercial independent shop which was inherited by operational creditor i.e. Renu Mahajan and operational creditor's son/daughter i.e. Pranav Mahajan and Yamini Mahajan in equal shares. Vide Relinquishment Deed dated 19.09.2016, they relinquished their rights over the said unit, making the operational creditor the sole rightful owner of the said unit. The operational creditor entered into lease deed dated 26.10.2016 with corporate debtor with consideration of Rs.

40,137/- per month and the rent was to be escalated by 15% at the end of every three years. However, no rent amount due had been received till now.

4. It is submitted by the petitioner in Form 5, Part IV that the amount claimed to be in default is Rs. 14,91,089/- (Rupees Fourteen Lakhs Ninety One Thousand and Eighty Nine Only) alongwith 18% interest. The default occurred on 1.07.2017 i.e. date onwards rent of lease property was due. Copy of lease deeds (Annexure P-2 and P/4), relinquishment deed (Annexure P-3) are attached with the main petition.

5. A demand notice in Form 3 is stated to be issued by the operational creditor on 18.07.2019 and the same has been delivered to the corporate debtor as postal receipt is annexed as Annexure P-6 and corporate debtor had not replied to demand notice till date nor any objection were received by operational creditor against said notice.

6. Notice of this petition has been issued to the corporate debtor to show cause as to why this petition be not admitted. The Affidavit of service was filed vide Diary No. 6996 dated 10.12.2019. But, neither anyone appeared on behalf of the corporate debtor nor any reply was filed. Vide order dated 20.10.2021 respondent-corporate debtor was set *ex parte*. The short written submissions were filed by applicant vide Diary No. 00126/01 dated 20.07.2022.

7. We have heard the learned counsel for the petitioner and have perused the records.

8. The first issue for consideration is whether the demand notice in Form 3 dated 18.07.2019 was properly served. The demand notice was

served upon respondent-corporate debtor as postal receipt is annexed at P-6 of the petition.

9. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. It is submitted by the applicant that no notice of existence of dispute had been received by the operational creditor. There had been no repayment of unpaid operational debt in full by the corporate debtor to the operational creditor. It is deposed by way of affidavit that in terms of Section 9(3)(b) of Insolvency and Bankruptcy Code, 2016 there was no notice given by the corporate debtor to dispute the unpaid operational debt in relation to the demand notice dated 18.07.2019 and the present application. No dispute had been pending in any court of law or Arbitral Tribunal regarding the present claim of debt. Therefore, the operational debt was not disputed by the corporate debtor.

10. The other issue for consideration is whether this application is filed within limitation. A demand notice issued dated 18.07.2019 in Form 3 was duly served on the corporate debtor. Therefore, the period of limitation would begin from the date of default i.e. 1.07.2017 i.e. date onwards rent of lease property was due. This application was filed on 19.08.2019 vide Diary No. 4151 and was refiled vide Diary No. 4497 dated 02.09.2019. Therefore, this Adjudicating Authority finds that this application is filed within limitation.

11. We have gone through the contents of the application filed in the Form 5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of Rs. 14,91,089/- (Rupees Fourteen Lakhs Ninety One Thousand and Eighty Nine Only) alongwith 18%

interest. Accordingly, the petitioner proved the debt and the default, which is more than Rupees one crore.

12. It is noted that the corporate debtor has expressed its inability to payback the aforesaid amount due as mentioned in the statutory notice till date. Thus, the conditions under Section 9 of the Code stand satisfied. It is evident that from the above mentioned facts that the liability of the corporate debtor is undisputed. Accordingly, the petitioner proved the debt and the default, which is above threshold limit.

13. In the present petition all the aforesaid requirements have been satisfied. It is seen that the petition preferred by the petitioner is complete in all respects. The material on record clearly goes to show that the respondent committed default in payment of the claimed operational debt even after demand made by the petitioner. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIR Process in the case of the Corporate Debtor, SRS Knowledge and Technology Pvt. Ltd. and also direct moratorium to take effect and appoint Interim Resolution Professional as below :-

14. In Part-III of Form No. 5, no Interim Resolution Professional (IRP) has been proposed by the petitioner. The Law Research Associate of this Tribunal has checked the credentials of Mr. Ashok Malik and there is nothing adverse against him. In view of the above, we appoint Mr. Ashok Malik, Registration No.IBBI/IPA-001/IP-P01913/2019-2020/12957,E-mail:malikandmalikadvocates@gmail.com, Mobile No. 9815199011 the Interim Resolution Professional with the following directions:-

i.) The term of appointment of Mr. Ashok Malik shall be in accordance with the provisions of Section 16(5) of the Code; subject to his written consent to be filed within 7 days of this order;

ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;

iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;

iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6

of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;

v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

vi.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required

under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

vii.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which

would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

ix.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

15. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Securitization and Reconstruction of Operational 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.

16. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, if any, shall not be terminated or suspended or interrupted during moratorium period. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

17. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process 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.

18. The petitioner is directed to deposit an amount of ₹1,00,000/- (Rupees One lakh Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by Interim Resolution Professional and shall be reimbursed by

the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

19. A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

20. This petition is accordingly admitted.

-sd-  
(Subrata Kumar Dash)  
Member (Technical)

-sd-  
(Harnam Singh Thakur)  
Member (Judicial)

December 23 , 2022  
/TB