

IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI  
BENCH-II  
IB-984/(ND)/2019

In the matter of:

A. C. Goel Paper Distributing Co. Pvt. Ltd.  
Registered office at:  
906, Vikram Tower,  
Rajendra Place,  
New Delhi-110008

...Applicant

Versus

Webtech Packaging India Pvt. Ltd.  
Registered office at:  
163, 3<sup>rd</sup> Floor,  
Kailash Hills,  
New Delhi-110065

...Respondent

Order Delivered on:25.07.2019

CORAM:

MS. INA MALHOTRA, MEMBER(JUDICIAL)

DR. V. K. SUBBURAJ, MEMBER (TECHNICAL)

Present: Mr. Shiv Khorana, Mr. Ashish Khorana, Advocates for  
Applicant

Mr. Sudipto Basu, Advocate for Respondent



**ORDER**

**Per Dr. V. K. Subburaj (Member Technical)**

1. This is an application filed by the Applicant M/s A. C. Goel Paper Distributing Co. P. Ltd., seeking to initiate corporate insolvency resolution process ("CIRP") of the Respondent M/s Webtech Packaging India Pvt. Ltd., under Section 9 of the Insolvency and Bankruptcy Code 2016 for the alleged default on the part of the Respondent in settling the dues of Rs. 75,50,292/- including the interest upto 31.01.2019, for the supply of paper boards by the Applicant. The details of transactions leading to the filing of this application as averred by the Applicant are as follows:
  - i. The Applicant is in the business of trading, selling, supplying all kinds of board, paper and other allied items. The Respondent is in packaging business and regularly purchases goods from the Applicant
    - a) The expenses and interest will be @36% on overdue account.
    - b) By cross cheque payment is requested.
    - c) No claim will be considered valid unless brought to our notice within 24 hrs in writing on receipt of goods.
    - d) Our responsibility ceases as soon as the goods leave our premises. No receipt is valid unless it is on the firms official receipt.
    - e) Subject to Delhi jurisdiction only



The goods were supplied on order received with aforesaid terms and supplies made and no objection was ever raised by CD.

- ii. The Applicant submitted the invoices for a sum of Rs. 50,00,194.84. The Respondent stated it was undergoing a financial difficulty and thus handed over two cheques dated 01.03.2017 & 10.03.2017 of Rs. 10 lakhs each. It was understood that if the two cheques are honored on presentation then the balance claim of the Applicant will be waived off and if the cheques are dishonored then the Respondent will have to pay the full claim with 18% interest. An understanding duly signed by both parties was entered into on 31.01.2017.
- iii. These two cheques were dishonored and the Applicant issued a notice under Section 138 of Negotiable Instruments Act, 1881. The proceeding under the Negotiable Instruments Act, 1881 is still pending. Thereafter, the Applicant issued notice for winding up on 22.04.2017 and claimed entire sum of Rs. 50,00,194.84 paisa with 18% interest per annum.
- iv. The Applicant also issued notice dated 14.02.2019 under Section 8 of the Code claiming a sum of Rs.75,50,292/-. The notices were sent to the Respondent at its registered office with copy to director but was returned undelivered as office of the Respondent had been closed. However, a reply was



received vide email dated 12.03.2019 from the Respondent with incorrect and false allegations.

2. Consequent to the issue of notice to the Respondent by the Tribunal, the Respondent filed its reply on 24.05.2019 in which he has raised the following contentions:

- i. The Respondent had a business relationship with the Applicant since 2006 and has made regular payments in the past.
- ii. The Respondent is willing to make the admitted payment of Rs. 21.32 lacs in a few installments if granted time by this Tribunal subject to the Applicant handing over the requisite 'C' forms as a part of statutory compliance, the non-compliance of which attracts severe penalty from the government.
- iii. There is a serious dispute where as part of statutory compliance the Applicant failed to hand over the C forms to the Respondent in spite of repeated verbal and email reminders and there is a computation of the liability on the part of Applicant towards Respondent which is annexed as Annexure R-1. That further there is an admitted debt to the tune of Rs. 21.32 lacs on the part of Respondent subject to handing over of the 'C' forms and reconciliation of accounts.
- iv. That the Respondent had written a number of emails to the Applicant requesting for providing the requisite 'C' forms



but all the requests fell on deaf ears and till date not a single 'C' form has been furnished to the Respondent by the Applicant which is a statutory compliance as mandated by law and has provisions for severe penal clauses from authorities in case the Respondent cannot file them.


v. In a settlement dated 25.07.2016 signed by both parties it is clearly agreed that the liability of the Applicant is Rs. 21.32 lakhs.

3. We have gone through the documents filed by both the parties and heard the arguments of both the counsels. From the reply filed by the Respondent it is very clear that the Respondent has admitted the liability to an extent of Rs. 21.32 lakhs and has even given the cheques for the amount on 25.07.2016 with request to deposit the cheques on email confirmation only. There does not seem to be a prior dispute raised by the Respondent with regard to either the amount or the C Forms. The Respondent has annexed certain e-mails in which it has asked the Applicant to supply C Forms but these cannot be taken as raising of a dispute in any way. Since there is clear admission on the part of the Respondent about the debt and there is default, this Tribunal initiates CIRP on the Respondent.

4. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:



- “(a) the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial 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 Respondent.
- (2) The supply of essential goods or services to the Respondent as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central




Government in consultation with any financial sector regulator.

- (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.”
6. The interim resolution professional (“IRP”), named in the list provided by the IBBI, is Ashu Gupta (email id: [ashugupta.cs@gmail.com](mailto:ashugupta.cs@gmail.com)) and is being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.
7. The Applicant shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be accounted for by the IRP and shall be reimbursed to the Applicant to be recovered as costs of the CIRP.
8. Renotify this case for report of the IRP on 01.10.2019.



**(Dr. V.K. SUBBURAJ)**  
**MEMBER (TECHNICAL)**



**(INA MALHOTRA)**  
**MEMBER (JUDICIAL)**

Deepak