

OR - 5/11/2019
Court (V)

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-2372 (ND) 2019

In the matter of

AARGUS GLOBAL LOGISTICS PVT. LTD.
Aargus Chamber
150, Kapashera Village
New Delhi-110037

.....Operational Creditor

V/s

EAST WEST LOGISTICS PVT. LTD
Plot No. 619, 3rd Floor
Block A, Rangpuri, Mahipalpur
New Delhi-110037

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 27.11.2019

CORAM:

MS. INA MALHOTRA, MEMBER (JUDICIAL)
MS. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

PRESENT- Adv Sowmya Saikumar for the Petitioner
None present for the Respondents

Singh

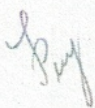
ORDER

Per Ms. Sumita Purkayastha (Member Technical)

1. The present petition has been filed invoking the provision of Section 9 of the Insolvency & Bankruptcy Code, 2016.

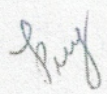
2. The Petitioner is engaged in the business of providing freight forwarding services to various clients. In furtherance of such services being provided, the Operational Creditor provided certain freight forwarding services to the Corporate Debtor as per its request. The Corporate Debtor duly accepted all such services requested for and never raised any dispute with respect to the quality of the services rendered by the Operational Creditor. As per the averments made by the Operational Creditor certain invoices dated 26.04.2018, 28.04.2018, 02.05.2018, 09.05.2018, 11.05.2018, 3 invoices of 14.05.2018 and 21.05.2018 for an amount of Rs. 10,05,794/- were raised and an amount of Rs.1,14,731 was paid by the Corporate Debtor and an outstanding amount of Rs.8,91,063 along with interest at the rate of 18% p.a. from the due date towards the Operational Creditor have not been paid by the Corporate Debtor.

3. The Petitioner served Demand notice dated 11.07.2019 by speed post and email to the Corporate Debtor U/Sec.8 of the Insolvency & Bankruptcy Code, 2016 seeking refund of payments within 10 days



from the date of receipt of the notice. That neither a reply to the Demand Notice nor any payment has been received by the Petitioner.

4. The Petitioner has therefore filed this petition as an Operational Creditor praying for initiation of Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate their claim of Rs. 8,91,063/- plus interest charged at 18% p.a. from the relevant due date till the date of payment.
5. The present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Affidavit in compliance under Section 9(3)(b) of Code are on record to corroborate his case. The requirement of 9(3)(c) has been complied with.
6. As per the averments of the Petitioners the Corporate Debtors did not make the payment against the default of. None appeared on behalf of the Corporate Debtor to oppose the prayer made by the petitioner, hence were proceeded ex-parte vide order dated 15.10.2019. The present petition being filed in September, 2019 is within the limitation, being within three years from the date of the cause of action. Considering the circumstances this Tribunal is inclined to admit this petition and initiate CIRP of the Respondent. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith staying:-



- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) transferring, encumbering, alienating or disposing of by the corporate debt or 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 Securitisation 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 corporate debtor.

Further:

(2) The supply of essential goods or services to the corporate debtor 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:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall

cease to have effect from the date of such approval or liquidation order, as the case may be."

7. The Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint Mr. Alok Kaushik, an Insolvency Professional, registration no. IBBI/IPA-001/IP-N00253/2017-18/10767 email- alok_kaush@yahoo.com duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file his report before the Adjudicating Authority.
8. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.
9. Petition is therefore admitted.

SD/-
SUMITA PURKAYASTHA
Member (T)

SD/-
INA MALHOTRA
Member (J)