

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 120/9/NCLT/AHM/2017

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 27.11.2018**

Name of the Company: TVS Interconnect Systems Pvt. Ltd.
V/s.
ORG Informatics Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Raheel Patel	Adv.	Respondent Petitioner	
2.	Amrita Patel for Megha Jani	Advocate	Respondent	

ORDER

Advocate Mr. Raheel Patel is present for the petitioner. Advocate Ms. Amrita Patel i/b Mrs. Megha Jani is present for the respondent.

1. The case is taken up for further hearing and for making compliance of the direction issued by the Hon'ble NCLAT (passed in the Company Appeal (AT) (insolvency) No. 73/2018). The Hon'ble NCLAT while disposing of the above stated appeal on 10.01.2018 has pleased to observe, by directing to this Tribunal to admit the present IB Petition preferred by the appellant before this bench under the Section 9 of the Insolvency and Bankruptcy Code. The Hon'ble NCLAT has given its conclusive findings on admission of the present IB

Petition and directed this Bench to pass a formal order in this respect.

For the sake of convenience, the relevant portion of the judgment of the Hon'ble NCLAT (with reference to para 8 to 10) passed in the above mentioned appeal are being reproduced herein below:

8. *Learned counsel appearing on behalf of respondent has taken other plea as observed by the Adjudicating Authority that the arbitral tribunal having not shown the appellant as assignee, he cannot claim to be the Operational Creditor.*
9. *We do not intend to go into the definition of the Operational Creditor, as it is admitted that MOKA was the Operational Creditor of the respondent corporate debtor. We are of the view that the appellant being assignee of the Operational Creditor pursuant to the valid agreement dated 14th November, 2013 and as the debt comes within the meaning of operational debt, the goods having been supplied to the Corporate Debtor and awarded amount having not been paid, thereby there being a default, it was incumbent on the part of the Adjudicating Authority to admit the application preferred by the appellant under Section 9.*
10. *We accordingly, set aside the impugned order dated 15th January 2018 passed by the Adjudicating Authority and direct the Adjudicating Authority to pass formal order of admission of application under Section 9, order of moratorium and appoint Interim Resolution Professional and pass appropriate order in accordance with I & B Code 2016. However, in the meantime, it will be open to the respondent Corporate Debtor to pay the admitted dues with interest as awarded by the arbitral tribunal before formal order of admission is passed by the Adjudicating Authority. In such case if it is brought to the notice of the Adjudicating Authority then the appellant may withdraw the application.*
2. We have gone through above referred order of the Hon'ble NCLAT and perused the material available on record.
3. Having heard the submission of the Learned Counsel for both parties, we are of the view that this Adjudicating Authority is required to pass a formal order for admission of the present petition filed under the Insolvency and Bankruptcy Code and further to appoint an IRP and to make statutory declaration of the Moratorium and issue further direction in respect of the Corporate Debtor Company.

4. Therefore, in pursuance of findings reached at and in compliance of the direction issued by the Hon'ble NCLAT in its order dated 10.01.2018 (passed in Company Appeal (AT) (Insolvency) No. 73/2018), we being an Adjudicating Authority, hereby admit the present IB Petition in respect of Corporate Debtor Company e.g. ORG Informatics Ltd. (registered office at – Patel Square, 1st Floor, Gorwa Industrial Road, Gorwa, Vadodara, Gujarat) and further declares Moratorium under Section 14 of the IB Code to commence, Corporate Interim Resolution Process in respect of the Corporate Debtor Company.
5. This Adjudicating Authority hereby appoints **Mr. Kiran Chinubhai Shah (Registration No. IBBI/ IPA-001/ IP-P00480/2017-18/10868, Email ID: dhruvitks@gmail.com, Mobile No: 9825506911) as Interim Resolution Professional** under Section 13(1) of the Code.
6. As the Section 13 of the IB Code, 2016 further stipulate that, after admission of the application under Section 7, 9 and 10 of the Code, the Adjudicating Authority shall pass an order declaring a moratorium for the purposes referred to in Section 14. Hence, in compliance of statutory provision of Section 13(1) and Section 14 of the Insolvency and Bankruptcy Code, this Adjudicating Authority declares Moratorium in respect of the Corporate Debtor Company, which shall come in force from the date of this order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.
7. This Adjudicating Authority further issue certain direction prohibiting following as laid down in Section 14 of the Code which reads as under:
- (i) *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;*
 - (ii) *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
 - (iii) *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 (54 of 2002);*

(iii) *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

(a) *The moratorium order in respect of (i), (ii), (iii) and (iv) above shall not apply to the transactions notified by the Central Government.*

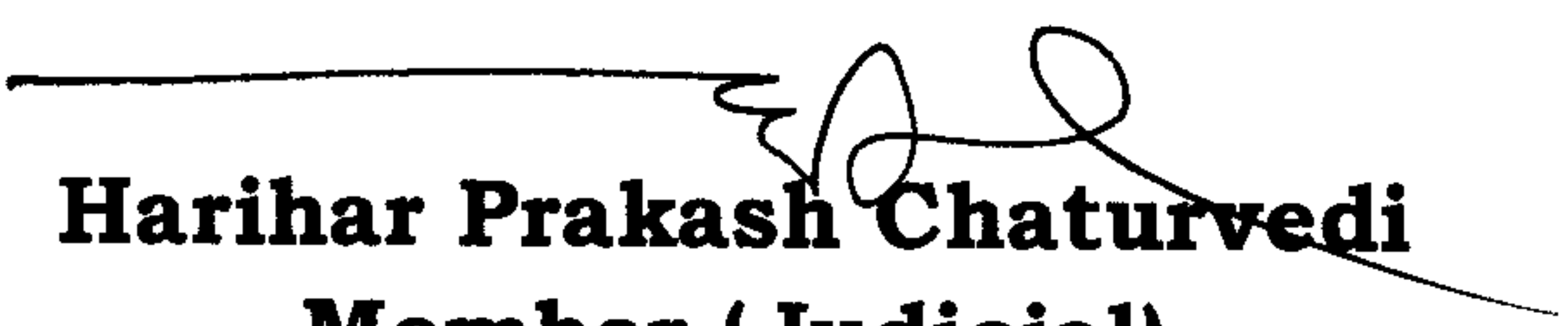
(b) *That the supply of essential goods or services to the corporate debtor, if continuing shall not be terminated or suspended or interrupted during moratorium period.*

(c) *The Applicant shall also make public announcement about initiation of Corporate Insolvency Resolution Process, as required by Section 13(1)(b) of the Code.*

8. The members of the suspended management of the Corporate Debtor Company are hereby directed to extend all cooperation to the appointed Interim Resolution Professional under the provision of Section 19(1) of the Insolvency and Bankruptcy Code.

9. Hon'ble NCLAT's order dated 10.01.2018 passed in above mentioned appeal shall form a part of this admission order.

10. The Registry is hereby directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional for information, necessary follow up action and for compliance.


Harihar Prakash Chaturvedi
Member (Judicial)

Dated this the 27th day of November, 2018