NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD
SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)
PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 22.02.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 251/9/HDB/2020
NAME OF THE COMPANY	Anjali Waterford Hospitality and Infra Ltd
NAME OF THE PETITIONER(S)	P Ranga Rao
NAME OF THE RESPONDENT(S)	Anjali Waterford Hospitality and Infra Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders pronounced vide separate orders.

MEMBER (T)

MEMBER(J)

Syamala

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CP(IB) No. 251/9/HDB/2020
U/s. 9 of Insolvency & Bankruptcy Code, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of:

Mr. P. Raghava Rao
S/o. Sh P. Nagendra Rao
R/o.4-39, Rajeev Colony
Madhavapatnam
Kakinada – 533 005

.... Operational Creditor

Vs.

M/s. Anjali Waterford Hospitality and Infra Ltd.
H.No.304-L-III, 2ND Floor
Road No.678, Jubilee Hills
Hyderabad – 500 096

... Corporate Debtor

Date of Order: 22.02.2021

Coram:

Hon'ble Shri. Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / Counsels present:

For the Petitioner : Ms. JVL Bharati, Advocate

For the Respondent: Nil.

Per: Veera Brahma Rao Arekapudi, Member (Technical)

Heard on: 11.09.2020, 06.10.2020, 28.10.2020, 18.11.2020, 15.12.2020, 27.01.2021, 01.02.2021

ORDER

1. The instant Petition is filed by **Mr. P. Raghava Rao/Operational Creditor** alleging that M**/s. Anjali Waterford Hospitality and Infra Ltd./Corporate Debtor** had defaulted an amount of Rs.5,95,690/- (Rupees Five Lakhs Ninety Five thousand Six Hundred and Ninety only) against Invoice No.007, Dated 20.04.2019 towards supply of 601.10 kgs of Napier Grass. **A copy of the invoice is shown at page no.22 of the application.**

   Hence, this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, r/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments of the petition filed by the Petitioner/Operational Creditor in brief are described hereunder:

   i. Mr. P. Raghava Rao/Operational Creditor is engaged in the business of supplying Napier Grass to Agri Firms and supplying the same to M/s. Anjali Waterford Hospitality and Infra Ltd./Corporate Debtor for the last 2 to 3 years on job contract basis. Corporate Debtor approached with a business proposal for huge supply of prawn seeds which was accepted by the Operational Creditor and entered into an MOU with Corporate Debtor on 15.03.2019 accepting to supply Napier Grass to Corporate Debtor on credit basis with a condition to make payment within 30 days from the date of supply in each invoice, failing which, interest @ 18% p.a. to be paid for late payment.

ii. It is averred during April, 2019, the Operational Creditor supplied 601.1 kgs. of Napier Grass and raised an Invoice No.007, dated 20.04.2019 for Rs.5,95,690/-. As per the terms & conditions of the MOU, the Corporate Debtor is required to make payment within 30 days from the date of issue. The Operational Creditor sent a letter dated 26.08.2019 for payment of the due amount with interest @ 18% for the late payment but Corporate Debtor did not pay and sent a letter dated 15.09.2019 stating their inability to make payment and requested time stating that they will make payment during November, 2019. A copy of the letter is shown at page No.24 of the application as **Annexure-5.**

iii. It is averred as the Corporate Debtor failed to make payment of the amount due, a Demand Notice was issued by the Operational Creditor on 23.01.2020 for payment of Rs.5,96,690/-. Even after issuing the demand notice, the Respondent failed to clear the outstanding dues.

3. The averments of the Counter filed by Mr. A. Venkateswara Rao, authorised representative of Corporate Debtor in brief are described hereunder:

i. It is averred that the Operational Creditor supplied Napier Grass Material and raised the bill but due to unethical competition in market and stringent economic conditions, lost considerable business and could not clear the bill.

ii. It is averred that the Corporate Debtor is not in a position to make the payment as their financial position is very weak. Corporate Debtor also prayed for relief as per the request of the Applicant as they cannot make payment in the given situation and financial circumstances.

4. We have heard the learned counsel for the Operational Creditor. In this case, the matter listed on several occasions but no representation for Corporate Debtor. There is no contest of the case of the Operational Creditor by the Corporate Debtor. The Operational Creditor has sent Demand Notice dated 23.01.2020 and there was no reply by the Corporate Debtor to the Demand Notice. The Operational Creditor has relied on the invoice shown at page no.22 of the application. The case of the Operational Creditor is that the Corporate Debtor committed default of the operational debt to the tune of Rs.5,95,690/-, apart from the interest at the rate of 18% per annum.

5. Despite several notices, the Corporate Debtor have not appeared either in person or through counsel in the matter.

6. The Counsel for Operational Creditor filed a Memo dated 01.02.2021 which is reproduced below:

"Applicant counsel approached respondent/CD for payment of dues, since it is a small amount, applicant wanted to make a settlement. But the respondent/CD expressed their inability to make payment. They informed applicant that they have to make payment to several creditors and due to huge losses they are not in a position to clear payment of any creditor/s. The operations of their Bio mass unit are also stand still. They filed counter and informed Hon'ble NCLT bench of their position.

7. We have thoroughly perused the records and heard the submissions made by the Counsel for the Operational Creditor. The petition is in order. The petition deserves to be admitted. Accordingly, the petition is admitted.

8. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with the following directions:-

i. The Bench hereby prohibits 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; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

ii. 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.

iii. 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.

iv. That the order of moratorium shall have effect from the date of this Order till the 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, whichever is earlier.

v. The Operational Creditor proposed the name of Mr. Pradeep Kumar Sravanam as Interim Resolution Professional and he has given his consent in Form-2. As per the Insolvency and Bankruptcy Board of India (IBBI) Website, Mr. Pradeep Kumar Sravanam's Authorisation for Assignment is valid upto 25.11.2021. Accordingly, this Tribunal appoints Mr. Pradeep Kumar Sravanam

as Interim Resolution Professional, having Registration No. IBBI/IPA-003/IP-N000100/2017-2018/11009.

vi. That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.

vii. Accordingly, this Petition is admitted.

viii. Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.

VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Syamala