



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/665/MB/2020

*[Under Section 9 of the Insolvency and Bankruptcy Code,
2016 r/w Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016]*

MARINE ELECTRICALS (INDIA) LIMITED

[CIN No.: U31907MH2007PLC176443]

B-1, Udyog Sadan-3

MIDC, Marol Industrial Area

Andheri (East), Mumbai – 400093.

...Applicant/Operational Creditor

V/s

VASP ENGINEERS PRIVATE LIMITED

[CIN No.: U31200PN2015PTC154883]

619 Shaniwar Peth

Shivajinagar, Pune – 411030.

...Respondent/Corporate Debtor

Pronounced: 26.02.2025

CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Hitesh Ramchandani, Adv Sakina Ruhawala i/b M/s

Consulta Juris

For Respondent: None. (*ex-parte*)



ORDER

[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]

1. BACKGROUND

1.1 This C.P. (IB) No.665/MB/2020 (Application) was filed on 28.12.2019, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by Marine Engineers (India) Limited (formerly known as Marine Electricals (I) Pvt. Ltd.), the Operational Creditor (OC), for initiating Corporate Insolvency Resolution Process (CIRP) against VASP Engineers Private Limited, the Corporate Debtor (CD), for the alleged default in repayment of operational debt of Rs.11,39,676.63/- (Eleven Lakh Thirty-Nine Thousand Six Hundred Seventy-Six Rupees and Sixty Three Paise).

1.2 The present Application was originally pending before Court-V of this Tribunal. It was later transferred to this Court and listed for the first time on 29.04.2024.

2. CONTENTIONS OF OC

2.1 The OC is engaged in the business of manufacturing electrical control panels. The CD issued the following Purchase Orders (POs) for the procurement of VCB (Vacuum Circuit Breaker) panels, which were duly delivered as per the agreed terms:

- a) PO Ref: V/POMV/15-16/12 R2 dated 06.12.2016;
- b) PO Ref: V/POMV/15-16/14 R1 dated 21.03.2017;
- c) PO Ref: V/POMV/15-16/16 R1 dated 21.03.2017; and



d) PO Ref: V/POMV/15-16/17 R1 dated 13.04.2017.

2.2 Pursuant to the delivery of goods under the aforementioned POs, the OC raised the following invoices, against the respective amounts:

- a) Invoice No. 280/25078 dated 22.12.2016 - Rs.40,16,250/-;
- b) Invoice No. 332/25078 dated 24.02.2017 - Rs.1,10,160/-;
- c) Invoice No. 11/25115 dated 13.04.2017 - Rs.5,14,654/-;
- d) Invoice No. 103/25120 dated 23.06.2017 - Rs.3,21,300/-;
- e) Invoice No. 122/25120 dated 30.06.2017 - Rs.2,95,800/-; and
- f) Invoice No. 123/25120 dated 30.06.2017 - Rs.9,180/-.

2.3 The CD made part-payment against the invoices, leaving the following outstanding amounts:

- a) Rs.1,57,650/- for Invoice No. 280/25078 dated 22.12.2016;
- b) Rs.19,392/- for Invoice No. 332/25078 dated 24.02.2017;
- c) Rs.10,091/- for Invoice No. 11/25115 dated 13.04.2017;
- d) Rs.2,93,300/- for Invoice No. 103/25120 dated 23.06.2017;
- e) Rs.2,66,800/- for Invoice No. 122/25120 dated 30.06.2017; and
- f) Rs.9,180/- for Invoice No. 123/25120 dated 30.06.2017.

The total outstanding principal amount is Rs.7,56,413/-. Additionally, an interest amount of Rs.3,83,263.63/- has accrued, resulting in a total due amounting to Rs.11,39,676.63/-, with accrual of further interest continuing.

2.4 Despite multiple follow-ups by the OC, the CD failed to make the necessary payments. Consequently, the OC issued a Demand Notice dated 09.09.2019 under Section 8 of the IBC.

2.5 The CD did not issue any notice of dispute regarding any unpaid operational debt.



2.6 In compliance with Section 9(3)(c) of the IBC, the OC has submitted a Bank Certificate dated 16.12.2019, from ICICI Bank Ltd., confirming that no payments have been received by it towards the outstanding operational debt. The said Certificate was enclosed with the OC's Statement of Bank Account from 30.06.2017 to 16.12.2019.

3. **CONTENTIONS OF CD**

3.1 There has been no representation of the CD on any occasion despite receiving multiple notices from Court V and this Court. The CD never appeared, and hence, *vide* order dated 21.05.2024, the CD was set *ex-parte*.

4. **ANALYSIS AND FINDINGS**

4.1 We have perused the documents available on record and heard the Ld. Counsel for the OC. Since the CD remained absent throughout the proceedings, the matter is taken up for consideration without any averment or evidence adduced by the CD. The issues involved in this Application are: (a) whether there exists operational debt and default by the CD; and (b) whether the present Application is within limitation. Now let us examine the issues.

4.2 The OC, a manufacturer of electrical control panels, has initiated proceedings against the CD for the recovery of an operational debt arising from the supply of goods under multiple POs. The OC has provided comprehensive documents, including invoices and a bank certificate, to support its claim that the CD is liable to pay a total of Rs.11,39,676.63/-, which comprises an outstanding principal amount of Rs.7,56,413/- along with the interest accrued. The OC raised 6 invoices for the supply of goods covered under the 4 POs. Although the CD has



made partial payments towards these invoices, a significant balance is still outstanding, for which the OC seeks initiation of CIRP through the present Application. Since the OC has not received the total payment due, a Demand Notice was sent to the CD on 09.09.2019, in accordance with the provisions of Section 8 of the IBC. The Demand Notice was duly received by the CD. Despite the statutory requirement under Section 8 of the IBC to respond within 10 days, the CD failed to provide any response or raise any dispute regarding the debt. Hence, it can only be presumed that the debt alleged by the OC is undisputed by the CD. Additionally, the OC, in accordance with Section 9(3)(c) of the IBC, provided a bank certificate from ICICI Bank Ltd., certifying that, as on 16.12.2019, no payments had been made by the CD towards the outstanding debt. This certificate further corroborates non-payment of the debt owed by the CD to the OC. Given the absence of any dispute or payment, the OC filed this Application for initiation of CIRP under Section 9 of the IBC.

4.3 It is also significant to note that the CD has not made any submissions in this Application despite receiving numerous notices sent to its registered address from the Registry. Because of the CD's ongoing failure to engage with the proceedings or provide any reasons for its non-payment, this Adjudicating Authority, in its order dated 21.05.2024, proceeded with the matter *ex-parte*. This indicates that the proceedings continued in the absence of any defence from the CD, and the OC's claim remained uncontested. The CD's lack of participation in the proceedings, coupled with its failure to respond to the Demand Notice or present any dispute, reinforces the OC's claim and suggests that the debt is undisputed and due and that the CD is in default. Issue (a) is answered accordingly.



4.4 The present Application is based on 6 Tax Invoices sent by the OC to the CD, all of which fell due for payment on 20.02.2017; 25.04.2017; 12.06.2017; 22.08.2017; 29.08.2017; and 29.08.2017, respectively. As the Application was filed on 28.12.2019, it is well within the three-year limitation period starting from each of the above 6 dates mentioned. Hence, issue (b) is also answered in favour of the OC.

4.5 The OC has complied with the procedural requirements under Section 9 of the IBC. The Demand Notice was issued in the prescribed manner, and the requisite bank certificate confirming non-payment was submitted, fulfilling the statutory requirements under Section 9(3)(c) of the IBC. The Application is complete in all respects. Since the OC's claim stands uncontested, the Application filed by the OC under Section 9 of the IBC to initiate the CIRP in respect of the CD is only to be admitted.

ORDER

In view of the aforesaid findings, this Application being C.P. (IB) 665/MB/2020 filed under Section 9 of IBC, 2016 by Marine Engineers (India) Limited (formerly known as Marine Electricals (I) Pvt. Ltd.), the OC for initiating CIRP in respect of VASP Engineers Private Limited, the CD, is **admitted**.

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

- I. We prohibit:
 - a) the institution of suits or continuation of pending suits or proceedings against the CD including the 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 CD 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 CD in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the CD.
- II. That the supply of essential goods or services to the CD, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the CD under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- V. That this Bench hereby appoints **Ms. Manasi Sarang Gudhate, a registered Insolvency Professional** having **Registration Number IBBI/IPA-002/IP-N01298/2024-2025/14461** and **e-mail ID csmanasisg@gmail.com** having valid Authorisation for Assignment up to 31.12.2025 as the IRP to carry out the functions under the IBC.



- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That during the CIRP Period, the management of the CD shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the CD are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the CD. The officers and managers of the CD shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the IBC. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules, 2016 for any violation of the law.
- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the CD.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the OC is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the OC on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.



- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XII. The Registry is directed to immediately communicate this Order to the OC, the CD and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-
SANJIV DUTT
MEMBER (TECHNICAL)**

//Alka Siwach//

**Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)**