

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No.4228/IB/2018

Under section 9 of the IBC, 2016

In the matter of

Quality Engineering (Baroda) Pvt. Ltd.
A/28, Gujarat Estate, Dharamsingh Desai
Marg, Chani Road, Vododara - 390 002,
Gujarat

.....Petitioner

v/s.

M/s. Orbit Electromech India Pvt. Ltd.
Orbit Industries, Plot No. L-45, MIDC,
Waluj, Aurangabad, Maharashtra - 431133

.... Corporate Debtor

Order delivered on: 23.07.2019

Coram:

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

For the Petitioner : CA Viral Shah

For the Respondent : None present

Per V. Nallasenapathy, Member (Technical)



ORDER

1. This Company Petition is filed by Quality Engineering (Baroda) Pvt. Ltd., (hereinafter called as "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against M/s. Orbit Electromech India Pvt. Ltd. (hereinafter called as "Corporate Debtor") alleging that Corporate Debtor committed default in making payment on various dates from 13.02.2018 to 24.04.2018 to the extent of ₹6,48,068/-, by invoking the provisions of Sections 8 & 9 of I&B Code, 2016 (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The brief facts of the case are that the Corporate Debtor placed purchase order with the petitioner for the supply of welding machines and its parts, the Operational Creditor after supply of goods raised invoices to the extent

of ₹18,84,296/-. The Operational Creditor received ₹12,36,228/- and a sum of ₹6,48,068/- is outstanding balance payable by the Corporate Debtor.

3. The Petitioner issued Demand Notice on 09.08.2018 to the Corporate Debtor under section 8 of the Code requiring the Corporate Debtor to pay the balance due of ₹6,48,068/- but Corporate Debtor has neither raised any dispute about unpaid Operational debt nor has given any notice relating to the dispute of the unpaid operational debt.
4. The Petitioner by an affidavit dated 06.06.2019 submitted that they have received a sum of Rs. 2,37,000/- after the filing of this Petition and hence the present outstanding is ₹4,11,068/-. The Petitioner further submitted that they have entered into settlement agreement dated 05.03.2019, wherein the Corporate Debtor had given four post dated cheques in settlement of claims but the first two cheques were dishonored by the bank when presented for payment.
5. Despite service of notice and intimation of date of hearing to the Corporate Debtor, the Corporate Debtor failed to appear before this bench.
6. This Bench has gone into the details provided in the Form 5 and connected materials and after hearing the Petitioner is of the considered view that there is debt and default. Hence the Petition deserves to be admitted.
7. This Bench having been satisfied with the Application filed by the Petitioner which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring Moratorium with the directions as mentioned below:
 - (a) That this 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 the Securitization and Reconstruction of Financial Assets and



Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

- (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) 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.
- (d) That the order of moratorium shall have effect from 23.07.2019 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, as the case may be.
- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Amit Chandrashekhar Poddar, having Registration No. IBBI/IPA-001/IP-P00449/2017-2018/1079, Contact No. 7709018000, Email Id: amitpoddar.ca@gmail.com, Office at: Meera Apts, 3rd Floor, above Resturant Durva, Opp. Yeshwant Stadium, Dhantoli, Nagpur-440012, as interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

8. Accordingly, this Petition is admitted.

9. The Registry is hereby directed to communicate this order to both the parties and IRP immediately.

Sd/-

V. NALLASENAPATHY
Member (Technical)



Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"

On 26/8/2019


Assistant Registrar

National Company Law Tribunal Mumbai Bench