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

**CP (IB) No. 359/MB-IV/2021**
Under Section 9 of the I&B Code, 2016

In the matter of:
**Karix Mobile Private Limited**
…Operational Creditor/Applicant
V/s
**Value Direct Communication Private Limited**
[CIN: U74990MH2010PTC200916]
...Corporate Debtor/Respondent

Order Dated: 17.02.2023

*Coram:*

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

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|---|---|---|
| For the Petitioner(s) | : | Mr. Naserali Rizvi i/b Dua Associates, Advocate. |
| For the Respondent(s) | : | Mr. Jai Prakash Rawat, Advocate. |

***Per: Kishore Vemulapalli, Member Judicial***

1. This is an Application being C.P. (IB) No. 359/MB/C-IV/2021 filed on 05.03.2021 by Mr. Rakesh D'souza, Sr. Manager (Sales) of Karix Mobile Private Limited, the Operational Creditor/Applicant, under

section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) against Value Direct Communication Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).

2. The Operational Creditor has filed Board Resolution dated 03.08.2020 in support of authorization in favour of signatory of this Application authorising him to file the present company application on behalf of the Operational Creditor.

3. The Corporate Debtor on 04.07.2016 executed a Master Service Agreement with the Operational Creditor for provision of wireless messaging services/Push message alert services and an interface to send bulk /individual SMSs to a set of valid contact database of the Corporate Debtor. During the period of January 2018 to April 2020, the Operational Creditor raised 41 invoices in furtherance of the varied services provided by it to the Corporate Debtor from time to time out of which 38 invoices were due and payable as on 23.03.2020.

4. Email Correspondence between both the parties for the period of April-May 2020 has been submitted by the Applicant Company and the Corporate Debtor has replied to these emails and promised to repay the outstanding debt.

5. The total amount claimed as on 23.03.2020 is Rs. 4,33,50,810.07/- which includes Contractual interest @2% every month and further interest until payment/realization. Subsequently, part payments were made by the Corporate Debtor towards some of the invoices to the tune of Rs. 7,00,000/- in October, 2020 which is reflected in the Statement of Account. No specific date of default is stated in Part IV of the Application and the Operational Creditor states that the default

against each invoice occurred upon 60 days from the date of invoice. The Operational Creditor has submitted a statement of dates reflecting the dates on which default occurred against each invoice as in 23.03.2020.

6. The Applicant issued a Demand Notice dated 16.02.2021 upon the Corporate Debtor vide email and registered post. The Corporate Debtor neither paid the outstanding amount nor replied to the said demand notice.

7. The Corporate Debtor has filed a reply dated 13.10.2021 admitting the liability with respect to the unpaid operational debt and showed willingness to repay the outstanding debt as and when funds are available with it.

8. We have carefully gone through the documents and pleadings available on record and considered the arguments of both the sides.

9. In view of the above, we find that the present case is fit for admission under Section 9 of the Code for initiation of CIRP against the Corporate Debtor.

10. On perusal of the documents submitted by the Applicant, it is clear that an operational debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant and there is default by the Corporate Debtor in payment of debt amount. The application is complete and has been filed under the proper form. Hence, the Application filed by the Operational Creditor is liable to be admitted.

11. The Applicant has not proposed the name of any registered insolvency resolution professional to carry out the functions as mentioned under Insolvency and Bankruptcy Code, 2016.

## ORDER

This Application being C.P. (IB) No. 359/NCLT/MB/C-IV/2021 filed under Section 9 of I&B Code, 2016, filed by Karix Mobile Private Limited**,** Operational Creditor/ Applicant against Value Direct Communication Private Limited, Corporate Debtor for initiating Corporate Insolvency Resolution Process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

a) 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;

b) transferring, encumbering, alienating or disposing of by the corporate debtor 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 Securitization and Reconstruction of Operational 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 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 the moratorium period.

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to

a. such transactions as may be notified by the Central Government in consultation with any Operational sector regulator;
b. a surety in a contract of guarantee to a Corporate Debtor.

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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.

VI. That this Bench appoints Mr. Hitesh Kothari, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00324/2017-18/10929], as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

e) The Operational Creditor shall deposit a sum of Rs. 5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing Public Notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.

g) The Registry is directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Kishore Vemulapalli
Member (Judicial)

/Akshata/