



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

CP (IB) No.3230/MB-IV/2019

Under Section 9 of the I&B Code, 2016

In the matter of:

Robo Silicon Private Limited

[CIN: U26100TG1999PTC033188]

...Financial Creditor/Applicant

V/s

Viraaj Projects (India) Private Limited

[CIN: U45101PN2001PTC015935]

...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):

For the Petitioner(s) : Ms. Ricab Chand i/b Mr. Rakesh
Sawant, Advocates.

For the Respondent(s) : Mr. Omkar V. Deosthale, PCS.

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This is an application bearing C.P. (IB) No. 3230/MB/C-IV/2019 filed by Robo Silicon Private Limited, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B Code)



seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Viraa Projects (India) Private Limited, Corporate Debtor.

2. The Application is filed by Mr. K.V. Pavan Kumar, Senior Manager-Legal of Operational Creditor, duly Authorised vide Board Resolution dated 21.08.2018, claiming total default of Rs.38,95,038/- (Rupees thirty-eight lakh ninety-five thousand thirty-eight only) along with interest at the rate of 18% from the 61st day of the date of invoice.
3. The Invoices raised against supply of goods fell due between the period from 08.06.2018 to 10.09.2018 and as per the last invoice the payment was due on 09.11.2018. Accordingly, the Date of Default falls within that period. Petition is filed on 25.11.2019.
4. The case of the Operational Creditor is that the Operational Creditor has supplied material to the Corporate Debtor under several Invoices. The goods were duly received and acknowledged by the Corporate Debtor.
5. The Operational Creditor submitted that the Corporate Debtor has made part payments leaving behind an outstanding amount of Rs.38,95,038/- (Rupees thirty-eight lakh ninety-five thousand thirty-eight only).
6. The Operational Creditor has issued Demand Notice dated 25.06.2019 in Form 3 claiming total outstanding amount of Rs.38,95,038/- (Rupees thirty-eight lakh ninety-five thousand thirty-eight only) to payable within 10 days from the date of this Demand Notice. The Corporate Debtor has replied vide its letter dated 04.07.2019 to the said



Demand Notice denying the liability of debt due and payable to the Operational Creditor.

7. The Corporate Debtor has filed its Affidavit-in-reply 09.10.2019 stating that the annexures of Demand Notice issued by the Corporate Debtor has not been received by the Corporate Debtor and the said Demand Notice is defective. The Corporate Debtor further stated that the Corporate Debtor has already paid the entire due amount to the Operational Creditor.
8. The Corporate Debtor submitted that Operational Creditor has not annexed the Purchase Orders under which purported debt claimed in the Petition and the claim arose out of different purchase orders and are clubbed in the Petition and hence the Petition is not maintainable.
9. The Operational Creditor has filed its Affidavit-in-Rejoinder dated 16.11.2019.

Findings:

10. We have heard the arguments of the Learned Counsel for Operational Creditor.
11. After perusal of the material on record, this Bench is of considered view that the Operational Creditor has supplied material to the Corporate Debtor and the Invoices were issued pursuant to the said supply.
12. The Operational Creditor has submitted the details of Invoices along with the Copy of Challan whereupon the Corporate Debtor's representative has signed and entered the time and date with the seal of the Corporate Debtor. The submission of the Corporate Debtor is without substance. The objections raised in the reply dated 09.10.2019

are devoid of merit. The Corporate Debtor has submitted copies of Invoices raised by the Operational Creditor whereupon certain directions have been made in relation to quantity and price, but the Corporate Debtor has not submitted any documents evidencing the confirmation of the Operational Creditor on such deductions or intimations of such deduction prior to receipt of the Demand Notice.

13. The Corporate debtor has objected to the present petition stating that the different debts, as claimed in the petition, arises from different Purchase Order(s), hence such debts cannot be clubbed together in the Petition. We find that in case of **M/s. A2 Interiors Products Pvt. Ltd. Vs. M/s. Ahluwalia Contracts (India) Ltd. (2021) SCC online NCLT 438**, the Co-ordinating Bench of New Delhi had allowed the Petition holding that debts arising from different work order(s) can be clubbed to satisfy the minimum threshold limit. Para 27 of the said judgement reads as under -

“27. Considering the documents on records and submissions made, it is observed that there exists an operational debt which is due and payable by the Corporate Debtor. Further with respect to the maintainability of an application, with regards the issue that whether for various claims arising out of separate work orders, single application can be filed by operational creditor. There are various judgments passed by separate claims can be part of single application. The Judgments are also relied by the applicant as referred above.”

14. In view of the foregoing, we are of considered view that there exists a debt; such debts exceed the minimum threshold limit of Rs. 1.00 Crore; and the Corporate Debtor has defaulted in payment of such debt.
15. After perusal of the material on record, this Bench is of considered view that there is no reason to deny the Petition under section 9 filed by the Operational Creditor to initiate the CIRP against the Corporate Debtor.
16. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,000/- (Rupees One Lakh Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor. Hence, the Application filed by the Operational Creditor is liable to be admitted.
17. The application is complete and has been filed under the proper form and default of the Corporate Debtor has been established.
18. The Operational Creditor has not proposed the name of Insolvency Resolution Professional in the matter.

ORDER

19. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing CP (IB) 3230/MB-IV/2020 filed by Robo Silicon Private Limited, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B



Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Viraaaj Projects (India) Private Limited, Corporate Debtor, is **admitted**.

(b) There shall be a moratorium under section 14 of the IBC, in regard to the following:

(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 (SARFAESI) Act, 2002;

(iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

(c) Notwithstanding the above, during the period of moratorium,-

(i) 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;



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- (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The 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 sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) Mr. Anil Jitendra Jhumkhawala, registration No. [IBBI/IPA-002/IP-N00423/2019-2020/12689]; Contact: 9820341106; E-mail: anil.jhumkhawala@gmail.com is appointed as Interim Resolution Professional to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to

the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

- (h) 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.
- (i) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-
Prabhat Kumar
Member (Technical)

17.02.2023

Sd/-
Kishore Vemulapalli
Member (Judicial)