

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

**CP(IB).NO.37/BB/17
Under Section 9 of Insolvency and Bankruptcy Code, 2016**

**IN THE MATTER OF
JAHNVI MAKWANA CONSTRUCTION PRIVATE LIMITED**

Order delivered on: 17th August, 2017

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner (s) 1. Shri.Raghavendra.S.H, Advocate

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 22.06.2017, 28.06.2017, 03.07.2017, 27.07.2017, 09.08.2017

ORDER

This Company Petition is filed by operational creditor namely M/s Jahnvi Makwana Construction Private Limited stating that the Corporate Debtor Company M/s Nandan Hotels Limited has defaulted in repaying a sum of Rs.1,50,81,868/- along with interest amount of Rs.83,53,798 and hence this Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking for admission of this petition, declaring moratorium on the Corporate Debtor Company, direction for public announcement of initiation of corporate insolvency process and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

The Petitioner/Operational Creditor provided services to the corporate debtor pursuant to purchase orders made by the corporate debtor. The operational creditor has enclosed the copies of Work Orders issued by the corporate debtor at **Annexure-C, E, G, I** and the Invoices raised by the operational creditor on the corporate debtor at **Annexure-K series** of the application. The value of service provided by the operational creditor is valued at Rs.3,51,22,608/- The operational creditor has sent email to the corporate debtor dated 20th January, 2017. The Corporate Debtor has raised detailed invoices of Rs.3,37,69,249/- and proforma bills for a sum of Rs.13,53,359/-. The copies of invoices and proforma bills are marked as Annexure-K series. The Corporate debtor has paid Rs.1,95,10,065/- to operational

creditor. The corporate debtor is due, for an amount of Rs.1,50,81,868 and the operational creditor has addressed a letter dated 15th June, 2015 to the corporate debtor but there is no reply to the letter. Thereafter the Petitioner again gave another statutory notice under section 8 of the Code to the Corporate debtor on 15th March, 2017 to repay the outstanding of Rs.1,50,81,868/- and in the event in does not pay within ten days of receipt of notice, the Petitioner would initiate a corporate insolvency resolution process.

The operational creditor has enclosed a certificate dated 12th April, 2017 from their banker M/s HDFC Bank, Vile Parle East-Station Road Branch, Mumbai, stating that the operational creditor has not received any payment from the corporate debtor for the six months in respect of the outstanding due i.e., Rs.1,50,81,868/- payable by the corporate debtor. The operational creditor has also filed an affidavit in support of this application.

The Operational Creditor has named Medha Kulkarni, Registration No. IBBI/IPA-001/IP-P00121/2017-2018/10263, residing at D-301, Admiralty Square, 13 cross, 6th Main, Indiranagar, Bangalore-560038 as Interim Resolution Professional and the said Interim Resolution Professional in his letter has expressed his willingness for the appointment and also certified that there are no disciplinary proceedings pending against him.

At the first instance the Tribunal ordered notice to the corporate debtor before admitting the petition. The notice couldn't be served on the Corporate debtor as intimation received from the postal department that "door locked intimation was served". The petitioner filed a memo dated 27.7.2017 along with postal receipt and information obtained from India Post website. It is also the case of Petitioner that Petition Copy and Annexures sent to corporate debtor returned with endorsement not claimed.

Thus it is clear the corporate debtor is trying to avoid receiving notice. After hearing the counsel for petitioner and considering the material available on record there are grounds to admit this petition under section 9 of the code declaring moratorium for the purposes referred to in Section 14 of the Code with the following directions:-


- i. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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; the recovery of any property by an owner or lessor where such property is occupied by or in the 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 17th August, 2017 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. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the code.
- vi. That this Bench hereby appoints Medha Kulkarni, Registration No. IBBI/IPA-001/IP-P00121/2017-2018/10263, residing at D-301, Admiralty Square, 13 cross, 6th Main, Indiranagar, Bangalore-560038 as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL