

Sr-no. 62/2018

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

**IB- 746/ND/2018**  
**TA No. 90/2018**

**CORAM: SHRI R. VARADHANRAJAN, MEMBER (JUDICIAL)**

**Order Pronounced on: 20.12.2018**

**IN THE MATTER OF SECTIONS 9 of IBC, 2016**

**IN THE MATTER OF:**

**Rajdhani Trading Co.**

**G-33, Industrial Area Bawana,  
Sector 5, New Delhi- 110039**

**..... Petitioners**

**VS.**

**Romesh Power Products Pvt. Ltd.**

**203, Tikkar Mal Lane, Kishanpole Bazar,  
Jaipur (Rajasthan)-302001**

**.....Respondent**

**For Petitioner (s)**

**:**

**Santosh Gupta, Adv.  
Prateek Goyal, Adv.  
Niteshwar Singh, Adv.**

**For Respondent(s)**

**:**

**None-appeared**

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## **ORDER**

(Pronounced in Open Court)

1. This is a petition which has been filed by the Operational Creditor, namely, petitioner herein in relation to the amount defaulted by the Corporate Debtor in a sum of Rs. 47,89,021/- in addition interest at the rate of 18% has also been claimed. The amount defaulted in the sum stated above, it is averred arises out of Electrical goods which had been supplied to the Corporate Debtor to the sites as directed by the Corporate Debtor and that satisfaction letters have also been given in relation to the delivery of goods to the consignee stated in the respective invoices. Supplies were made, it is averred arises out of seven invoices, the details as stated in the application aggregating in all to a sum of Rs. 63,87,080/- and the invoices were raised during the period 29.06.2017 to 19.01.2018. In relation to the said invoices, payments have been received only to the extent to Rs. 14,00,059/- and the balance sum remains unpaid of Rs. 47,89,021/- which is in default. In view of the default in payments in relation to the supplies made, notice under Section 8 of Insolvency and Bankruptcy Code, 2016 (IBC, 2016) had been issued to the Corporate Debtor dated 11.05.2018 through speed post. However, the said notice had been returned by the Postal Department with an endorsement 'refused'. Section 8 notice was also duly issued through email to the Corporate Debtor and the same was

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not been returned back or bounced. Despite issue of Section-8 notice, no amount has been paid nor any notice of dispute has been sent by the Corporate Debtor and hence this petition before this Tribunal invoking the provisions of Section 9 of IBC, 2016.

2. Perusal of the records of this Tribunal shows that pursuant to the notice issued one Mr. Harish Khandelwal, Director of the Company/Corporate Debtor appeared before this Tribunal on 28.09.2018. However, in view of the lack of authorization, this Tribunal directed the said person, namely, Mr. Harish Khandelwal to come with a suitable authorization or to engage a counsel to appear on behalf of Corporate Debtor and for this purpose the next date of hearing was fixed on 12.10.2018. On 12.10.2018 none appeared on behalf of Corporate Debtor including the said Mr. Harish Khandelwal who claimed himself to be the Director of the Company and in the Circumstances, this Tribunal was constrained to proceed with the petition in the absence of the Corporate Debtor as duly reflected in the order dated 12.10.2018.
3. Subsequent to the said date and upon adjournment to 30.11.2018, the matter was fixed for enquiry today i.e. 20.12.2018. Learned counsel for the petitioner is present and insist that the matter be taken up today for enquiry as the matter is pending for long. It is brought to the notice of this Tribunal that this petition was filed as early as on 12.06.2018. Since no formal

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application has been filed on the part of the Corporate Debtor in relation to order dated 12.10.2018 and in such circumstances a letter for adjournment has been circulated on behalf of the Corporate Debtor, which we are not inclined to entertain the same in the absence of any formal application seeking for setting aside the order dated 12.10.2018 and this Tribunal accordingly proceeded with the enquiry.

4. During the course of submissions on behalf of the petitioner by learned counsel for the petitioner, it is brought to the notice of this Tribunal that invoices which have been filed evidencing the supply of goods to the Corporate Debtor at the location specified by the Corporate Debtor is annexed as Annexure A-8 (Colly). It is brought to the notice of this Tribunal that along with the invoices the Lorry receipts as well as the letter issued by the consignee being the inspection/test report has also been enclosed in relation to all the invoices and that there can be no question of dispute in relation to quality of goods or quantity. Further, learned counsel for the petitioner also points out to the statement of accounts as filed as Annexure A-7 to the petition, wherein the balance which has been struck off after accounting of the payment for the sum of Rs. 14,00,059/- from the Corporate Debtor is to the extent of 47,89,021/-. It is also pointed out by learned counsel for the petitioner that in relation to the payment received the bank statement have been duly enclosed for the relevant period.

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5. Learned counsel for the petitioner also points out to the issue of Section-8 notice under the provision of IBC, 2016. Perusal of the cover with postal endorsement in relation to the Section-8 notice points out that it has been returned with an endorsement 'refused' as endorsed by the Postal Authorities when an attempt was made to serve the Section 8 notice upon the Corporate Debtor. Since refusal in effect is also an acknowledgement, this Tribunal proceeds that Section 8 notice has been duly served on the Corporate Debtor. In addition, it is also seen that an email communication has also been addressed to the Corporate Debtor to the email ID ROMEXCABLEONE@yahoo.com dated 16.05.2018.
6. In relation to the notice of the proceedings, it is evident that the Corporate Debtor is well aware of the proceedings pending before this Tribunal and despite the same has failed to defend its cause. Since a default as claimed by the petitioner arises out of the supply of materials/goods and also taking into consideration that no notice of dispute has been sent in relation to the Section 8, notice being the notice of default sent by the Operational Creditor to the Corporate Debtor, as well as no reply has been filed before this Tribunal and this tribunal having been satisfied with the claim made and as a default arises thereunder is constrained to initiate Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor.

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7. Since the petitioner has not proposed any Insolvency Resolution Professional, Mr. Rajneesh Singhvi having IP registration No. IBBI/IPA-001/IP-P00037/2017-18/10098 is appointed as IRP. The Operational Creditor to remit a sum of Rs. 2,00,000/- within two days from the date of receipt of this order to the IRP named as above. In view of the admission of this petition the moratorium as contemplated under Section 14 of IBC, 2016 be commenced. In terms of Section 17 of IBC, 2016, the powers of the Board of Directors of the Corporate Debtor shall stand suspended and the IRP appointed by this Tribunal will take charge of affairs of the Company henceforth.
8. In terms of Section 19 of IBC, 2016, the Board of Directors of the Corporate Debtor whose powers stands suspended as well as its personnel shall fully co-operate with the IRP appointed herein and due co-operation shall also be extended to the IRP by the employees, associates and professionals rendering their service to the Corporate Debtor. IRP to exercise the powers within the confines of IBC, 2016 and shall perform all duties as behoved upon IRP under the provisions of IBC, 2016 as well as all attendant rules and regulations. without any let and shall also file the status report in relation to the progress of the CIRP of the Corporate Debtor. A copy of this order shall be duly communicated to the Operational Creditor, Corporate Debtor as well as to learned IRP, namely, Mr.

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Rajneesh Singhvi at the earliest not later than three days from today. Copy of this order shall also be forwarded to IBBI for its records. Under the above circumstances, this application stands admitted.



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(तारा चंद कुमावत)  
(Tara Chand Kumawat)  
सहायक रजिस्ट्रार  
Assistant Registrar  
राष्ट्रीय कम्पनी विधि अधिकरण  
National Company Law Tribunal  
जायपुर, राजस्थान  
Jaipur, Rajasthan



**(R. Varadharajan)**  
**Member (Judicial)**

Shakti