IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. (IB) 2823/2018
Under section 9 of the IBC, 2016
In the matter of
Ultratech Cement Limited
Ahura Centre, B-Wing, 2nd Floor,
Mahakali Caves Road, Andheri (E),
Mumbai- 400093.

....Petitioner

v/s.

Silveroak Commercials Limited
Plot No. F-24 MIDC Satpur Nashik MH 422 007.

….Corporate Debtor

Order delivered on: 01.05.2019

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

For the Petitioner: Mr. Tanmay Kelkar, Advocate i/b. Mahajan & Mahajan.
For the Respondent: None Present.

Per: Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This Company Petition is filed by Ultratech Cement Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Silveroak Commercials Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the extent of Rs. 37,91,750/-, which is inclusive of interest @21% p.a. from the date of invoice till 15.03.2018, by invoking the provisions of Section 9 of Insolvency and Bankruptcy Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority)Rules, 2016.

2. The petitioner submits that they have supplied cement and ready mix concrete material to the Corporate Debtor and raised invoices from 14.03.2017 to 2.05.2017 on the Corporate Debtor to the extent of Rs.

30,78,125/-. It is further submitted that as provided in the invoice the petitioner is entitled to charge interest @ 21 % p.a. on the delay in making payment which works out to Rs. 7,13,625/- till 15.03.2018.

3. It is submitted that the Corporate Debtor issued two cheques, one for Rs. 15,54,600/- dated 12.02.2018, and another for Rs. 15,34,900/- dated 22.02.2018, drawn on Lakshmi Vilas Bank, Nashik Branch and both the cheques were dishonoured with an endorsement "Funds Insufficient".

4. The petitioner issued demand notice on 18.05.2018 to the Corporate Debtor demanding a sum of Rs. 37,91,750/-. Despite service of demand notice the Corporate Debtor failed to reply. The petitioner has filed an affidavit under section 9(3)(b) of the Code stating that the Corporate Debtor has not raised any dispute regarding the unpaid operational debt.

5. The petitioner submit that the copy of the petition sent to the Corporate Debtor was returned with an endorsement as "addressee left". Subsequently, the petitioner has taken out publication in Times of India dated 31.01.2019 and also in Nashik Pudari dated 31.01.2019 and filed proof of service. However, there is no representation on the side of the Corporate Debtor.

6. This Bench on hearing the petitioner and after going through the documents annexed to the petition is of the view that the Corporate Debtor is liable to pay the amount claimed in the petition and defaulted in making the payment.

7. This Bench having been satisfied with the Petition filed by the Operational Creditor which is in compliance of provisions of section 9 of the Insolvency and Bankruptcy Code admits this Petition 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 01.05.2019 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. Rajendra Kumar Khandelwal, having office at 302, Tara Mahal, Plot No. 756, 5th Road, Khar (West), Mumbai – 400052; having Registration No. IBBI/IPA-001/IP-P01140/2018-19/11867 as an 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 to IRP immediately.

Sd/-	sd/-
V. NALLASENAPATHY	BHASKARA PANTULA MOHAN
Member (Technical)	Member (Judicial)