

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. 37/I&BP/2018

Under Section 9 of I&BC, 2016

In the matter of:

Gandhar Oil Refinery (India) Limited
... Petitioner

vs.

Siddheshwar Industries Private Limited
... Respondent

Order delivered on: 14.05.2018

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

For the Petitioner: Adv. Charles De Souza
Adv. Mithila Damle i/b Verus

For the Respondents: None Present

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Insolvency and Bankruptcy Petition filed by the Petitioner against Siddheshwar Industries Private Limited, seeking to invoke the Corporate Insolvency Resolution process under Section 9 of Insolvency and Bankruptcy Code, 2016 read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule 2016, on the ground that the Corporate Debtor defaulted in making payment to the extent of ₹15,91,266/- as on 30.09.2017, along with interest @ 24% p.a. as stipulated in the invoices for the supply of hydraulic oil, machine lubricant, mineral oil and other products to the Corporate Debtor, and also stating that the default started from 16.05.2015 onwards.



2. The Petitioner submits that invoices were raised against the Corporate Debtor from 16.05.2015 to 25.09.2016 to the extent of ₹11,97,690/-, payments were received to the extent of ₹1,50,000/-, the last payment was made on 25.07.2016, and the balance outstanding along with interest works out to ₹15,91,266/-. The Petitioner enclosed the email communications dated 19.3.2016 and 25.10.2016, wherein the Corporate Debtor acknowledged the debt.
3. The Petitioner issued demand notice to the Corporate Debtor on 10.10.2017 claiming a sum of ₹15,91,266/- along with interest at the rate of 24% per annum from the due date, which was received by the Corporate Debtor on 3.10.2017. The Petitioner states that the Corporate Debtor has not replied to the said notice. The Petitioner filed an Affidavit as required under section 9(3)(b) of the Code stating that it has not received any notice of dispute regarding the unpaid operational debt. The Petitioner has enclosed the Certificate issued by HDFC Bank as required under section 9(3)(c) of the Code.
4. This Petition was posted for hearing initially on 21.03.2018 and then on 04.04.2018 wherein the Corporate Debtor was absent, the Petitioner was directed to inform the next date of hearing which was on 13.04.2018. Accordingly, the Petitioner informed the date of hearing to the Corporate Debtor and filed proof of service. However, despite service of notice, the Corporate Debtor failed to appear.
5. One Mr. Shrikant Madanlal Zavar, residing at 525, The Summit, Business Bay, near Western Express Metro Station, Andheri East, Mumbai - 400093 having Registration No. IBBI/IPA-001/IP-P00156/2017-18/10325 has given his consent in Form No. 2 to act as an Interim Resolution Professional.
6. This Bench having satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits



this Application 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 14.05.2018 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. Shrikant Madanlal Zawar, residing at 525, The Summit, Business Bay, near



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Western Express Metro Station, Andheri East, Mumbai - 400093 having Registration No. IBBI/IPA-001/IP-P00156/2017-18/10325 as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.
8. The Registry is hereby directed to communicate this order to both the parties.

Sd/-

NALLASENAPATHY
Member (Technical)

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 22/05/2018



Deputy Director
National Company Law Tribunal, Mumbai Bench

