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**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 198/9/NCLT/AHM/2017

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 14.02.2018**

Name of the Company: Parshwanath Enterprise.
V/s.
Anil Technoplus Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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|----|---------------------------|------------|--|--|
| 1. | Tanisha Khubchandani Adv. | Petitioner | | |
| 2. | For Arjun Sheth | | | |

Tanisha

ORDER

Learned Advocate Ms. Tanisha Khubchandani i/b Learned Advocate Mr. Arjun Sheth present for present for Operational Creditor/ Petitioner. None present for Respondent.

Order pronounced open court. Vide separate sheets.

Registry is directed to inform the proposed IRP Mr. Shah Dhavalkumar Kamleshkumar to appear before this Authority on 19.02.2018 and file his written communication.

List the matter on 19.02.2018.

Manori
**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 14th day of February, 2018.

B. Raveendra Babu
**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AMEDABAD BENCH
AHMEDABAD**

C.P NO. (IB) 198/9/NCLT/AHM/2017

In the matter of:

1. Parshwanath Enterprise
S/4, Siddhi Vinayak Industrial
Estate, New Cotton Mill Compound
Area, Amraiwadi Road
Ahmedabad - Gujarat

: Petitioner
: Operational Creditor

VERSUS

1. Anil TechnoPlus Ltd.
Survey No. 195/4,
At Karannagar
Taluka Kadi,
Mahesana, Gujarat 382727

: Respondents
Corporate Debtor

Order delivered on 14th February, 2018

**CORAM: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial
Hon'ble Ms. Manorama Kumari, Member Judicial**

Appearance:

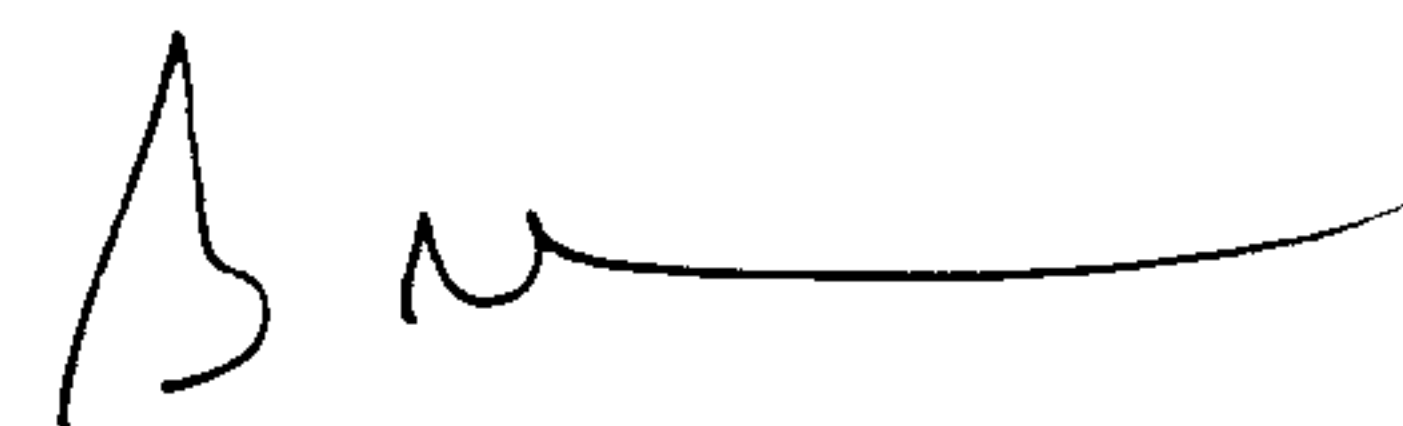
For the petitioner : Ms. Krina Parekh with learned
advocate Mr. Aakarsh Shah i/b,
learned advocate Mr. Arjun Sheth

For the respondents :



ORDER**(Per : Hon'ble Mr. Bikki Raveendra Babu, Member Judicial)**

1. Parshwanath Enterprise, a partnership firm, through its authorised person – Nirav Kishorchandra Sheth styling it as operational creditor filed this petition under Section 9 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") with a request to initiate Corporate Insolvency process in respect of Anil TechnoPlus Limited styling it as corporate debtor.
2. Anil TechnoPlus Limited is a company registered under the Companies Act, 1956 having its registered office in Mehsana District, Gujarat. Petitioner is a partnership firm consisting of two partners viz. Manish B. Shah and Nirav K. Sheth.
3. Manish B. Shah by letter dated 27.08.2017 gave consent and authority to Nirav K. Sheth to initiate legal proceedings under the Insolvency and Bankruptcy Code against Anil TechnoPlus Limited (respondents). Partnership deed filed along with petition also disclose that aforesaid two persons are the only partners in the partnership firm. Hence this petition is filed by one of the partners.



4. Respondents from time to time placed orders for SS, C.S., M.S. & alloy steel pipe, fittings & flanges, different type of industrial valves, M.S. angle, channel & plates, with the petitioner. Petitioner supplied the same to the respondents as per the terms and conditions agreed. As per the agreed terms and conditions, respondents shall pay within 90 days from the date of respective invoices but respondents failed to repay the amount due to petitioner as per the invoices. In spite of repeated reminders by petitioner, respondents did not pay the outstanding amount. Petitioner issued demand notice at the registered address of the corporate debtor under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on 28.08.2017 demanding outstanding payment of Rs. 3,01,185/- along with supporting invoices and calculations. The said notice was returned unserved. Petitioner sent demand notice to the email address of the Director of the respondents. Respondents did not chose to make payment. In spite of request made by petitioner, bankers have not furnished Bank Certificate as required under section 9 (3) (C) of the Code. Petitioner filed the statement of bank accounts of the petitioner. Petitioner sent a copy of the petition to respondents. Thereafter petitioner filed a copy of certificate issued by HDFC Bank. Petitioner filed affidavit stating that copy of the petition was despatched to the respondents on 04.12.2017 which was returned unserved with same reason that "company is closed". Petitioner also filed affidavit stating that pursuant to order passed by this Tribunal petitioner sent notice of date of hearing to the respondents on 13.12.2017 but



the same also returned unserved with reason "company is closed". This Tribunal directed registry to send notice to the respondents, that also returned unserved as company is closed and nobody present.

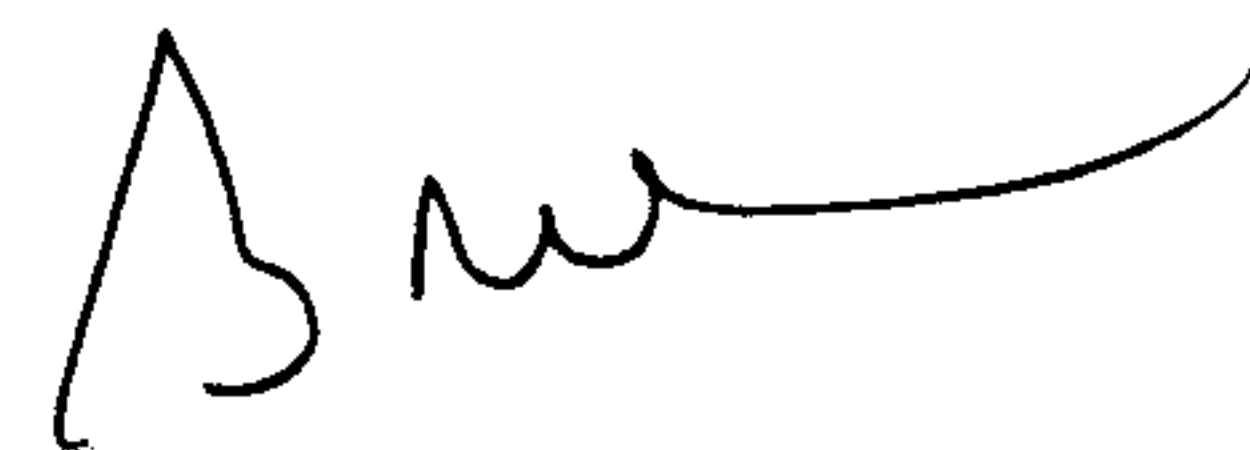
5. In view of the above said facts it is clear that notice sent to the respondents is returned unserved as the company is closed. In fact petitioner also sent email notice to one of the Directors of the respondents company, but respondents did not chose to reply.
6. Petitioner has enclosed with the petition copies of invoices along with notice of demand. Petitioner also filed copies of purchase orders and invoices. Petitioner also produced statement of bank account to show that no amount was paid by the respondents. Petitioner also obtained certificate from HDFC bank and filed it to show that no amount was paid by the respondents.
7. From the aforesaid material on record, petitioner is able to establish that there exists debt as well as occurrence of default. Respondents did not chose to give any reply in this petition. Notice sent to him were returned unserved as the company is closed. Notices were issued at the registered address of the respondents. A very fact, such notices, more than once, returned unserved shall be presumed as sufficient notice. In



fact, notice issued by the registry of this Authority also returned unserved. There is no response to the email issued to one of the Directors of the respondents. Therefore, it can only be said that no notice of dispute has been raised by the respondents.

8. Petitioner has not named Insolvency Resolution Professional and he has left it to the discretion of this Authority.
9. In view of the aforesaid findings, this application deserved to be admitted and it is accordingly admitted.
10. In view of the letter of Insolvency and Bankruptcy Board of India dated 01.01.2018 and the letter of Registrar NCLT dated 03.01.2018, this Authority has to propose the name of Insolvency Professional in case no name of Insolvency Professional is proposed by Operational Creditor. Hence, Adjudicating Authority hereby propose the name of Mr. Shah Dhavalkumar Kamleshkumar Insolvency Professional as Interim Resolution Professional.
11. This adjudicating Authority hereby order moratorium under Section 13 (1) (a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (a) the institution of suits or continuation of pending suits or proceedings against the company/ corporate debtor including execution of any



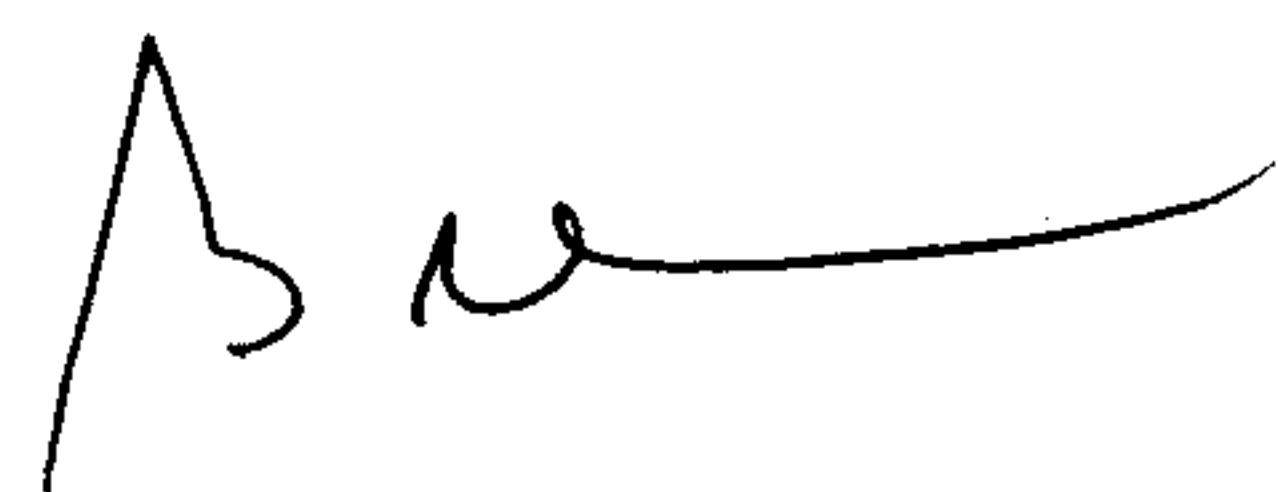
judgement, decree or order in any court of law, Tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the company/corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the company/corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the company/corporate debtor.

(i) There shall not be any interruption, suspension or termination of supply of essential goods or services to the corporate debtor during the moratorium period.



(ii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.

(iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency Resolution Process subject to the proviso under sub-section (4) of Section 14.

12. Registry is directed to intimate the proposed Interim Resolution Professional asking him to appear and file written communication on 19.02.2018.

13. This application is disposed of accordingly. No order as to costs.



**Ms. Manorama Kumari,
Member Judicial
Adjudicating Authority**



**Bikki Raveendra Babu
Member Judicial
Adjudicating Authority**