

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AT NEW DELHI**

**Date of Decision: 1<sup>st</sup> June, 2017**

**Company Petition No. (IB)-107(ND)/2017**

**In the matter of**  
Under-Section 9 of the IBC, 2016

**M/s. Kei Industries Limited**

**.....Petitioner**

**Versus**

**M/s Shipra Infra Project Private Limited**

**...Respondent**

**CORAM:**

**MS. INA MALHOTRA, MEMBER (JUDICIAL)**

**MR. S.K.MOHAPATRA (TECHNICAL)**

**For Petitioner (s)**     Mr. Priyanka Ghurawat, Advocate

**For Respondent(s)**     None



### **ORDER**

The petitioner has filed this application u/s 9 of the IBC, 2016 (hereinafter referred to as Code). As per the submissions made, the Operational Creditor is engaged in the business of supply of wires, cables. During the course of its business, it had supplied wires, cables to the respondent (herein referred to as Corporate Debtor). The Operational Creditor has been maintaining a running account for the goods supplied to the Corporate Debtor and prays for initiation of the Insolvency Resolution Process against them as they are in default of payment of the principal amount of Rs.5,20,106 /-. It is submitted that despite demands made from time to time, the Corporate Debtor has failed to liquidate its liability.

2. Steps to serve the Corporate debtor were taken, but none appeared on their behalf.

3. The present petition has been filed in the form and manner prescribed under the Code. It is annexed with the copies of the invoices and delivery receipts from 28.03.2014 and 11.04.2014. The petitioner has been maintaining a ledger account reflecting the statement of debit and credit in the running account with the Corporate Debtor which reflects an outstanding liability of Rs.8,66,715/- towards the unpaid bills and the interest claimed thereon. It is submitted that in acknowledgment this outstanding liability, the Corporate Debtor had tendered a cheque in the sums of Rs. 5,20,106/-, being number



085523 dated 13.05.2014, issued by the ICICI Bank Ltd, Jaipur Tonk Road Branch. The said cheque was returned unpaid with the remarks "Insufficient Funds".

4. It is submitted by the Ld. Counsel for the Operational Creditor that they have duly complied with the mandatory provisions of Section 9 (3) (a), (b) & (c). Copies of the invoices and delivery challans sent along with their demand notices dated 08.02.2017 and 02.05.2017 to the Corporate Debtor have been placed on record. The applicant submits that the Corporate Debtor has not raised any dispute with respect to the un-paid operational debt and an affidavit has been filed as required u/s 9(3) (b). Further, apart from the statement of their Account, duly certified by their Bank, in addition a letter has been issued by their Banker viz. ICICI Bank Limited certifying that no credit has been made in the account of the Operational Creditor against the dishonored instrument of Rs. 5,20,100/-

5. From the facts of the case, we are satisfied that the Operational Creditor is entitled to initiate the Insolvency Resolution Process against the Corporate Debtor in respect of its legally recoverable dues for the supply of goods. This petition u/s 9 of the Code is therefore Admitted.

6. A moratorium in terms of section 14 of the Code is being issued prohibiting the following:



- (a) 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;
- (b) transferring, encumbering, alienating or disposing of by the 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 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;
- (d) recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

7. It is further directed that:

- (a) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (b) The provisions of sub-section (1) of section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

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8. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process.

9. The Operational Creditor has proposed the name of Shri Abhishek Anand as the Interim Resolution Professional. He has duly registered with the IBBI, vide registration no. IBBI/IPA-602/IP-N00038/2016-17/10077 and has accorded his consent for being appointed in the case. He has certified certifying that there are no disciplinary proceedings pending against him. He is therefore directed to take steps in accordance with Section 15,17 and 18 of the Code and submit his report within 30 days. All personnel of the Corporate Debtor including its promoters shall extend full cooperation to the interim resolution professional as in provided by Section 19 and any other provisions of the Code.

10. Be listed on 5<sup>th</sup> July, 2017.

11. Copy of the order be communicated to both the parties.



**(S. K. Mohapatra)**  
**Member Technical**



**(Ina Malhotra)**  
**Member Judicial**