

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH III
SPECIAL BENCH

(IB) 1411 (ND) 2018

In the matter of

M/s AS Technosoft Pvt. Ltd.

..... Petitioner

V/s

M/s Indianroots Shopping Ltd.

..... Respondent

SECTION: 9 of IBC, 2016

Order delivered on 13.03.2019

Coram:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

For the Petitioner (s) : Arun Gaur & Atul Kumar, Advocate

For the Respondents (s): Mr. Rishabh Bansal, Advocate

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The petitioner, as an Operational Creditor, has prayed for initiation of Corporate Insolvency Process against the Respondent/Corporate Debtor which was formerly known as NDTV Ethnic Retail Ltd. As per the averments, the Operational Creditor provided E-mail marketing services to NDTV Ethnic Retail Ltd from July 2013 till November 2016. Various

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invoices were raised for which the Operational Creditor maintained a running account. The payment were made satisfactorily till early 2016, after which the Corporate Debtor started defaulting in its payment. The outstanding liability towards the Operational Creditor was duly confirmed by NDTV Ethnic Retail Ltd as Rs. 35,10,907/- as on 20.02.2017. The Corporate Debtor also deducted TDS and deposited the same which is duly substantiated by their form 26AS. The Auditors of the Corporate Debtor wrote to the Operational Creditor to confirm the outstanding liability as Rs.31,10,907/- which was affirmed by the Operational Creditor.

2. The Corporate Debtor has failed to liquidate its liability constraining the Operational Creditor to issue a Demand Notice dated 12.09.2018 as required under Section 8 of the Insolvency & Bankruptcy code (hereinafter referred to as the Code). The said notice was not replied to. Thereafter, the Operational Creditor has followed it up by filing the present petition. The petition has been filed in the required format, along with the supporting affidavit that no notice of dispute has been raised. Compliance of the provision of Section 9(3)(c) is also on record.

3. The respondent was served through the process of the Bench. Mr. Rishabh Bansal, Advocate appeared on behalf of Corporate Debtor but did not file any reply. As the submissions made by the Operational Creditor remain unrebutted, and in the absence of any prior dispute Operational Creditor's prayer merits consideration

4. Accordingly, a moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith, stating:

(a) *the institution of suits or continuation of pending suits or proceedings against the 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 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) *the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

Further:-

(2) 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.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect



from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

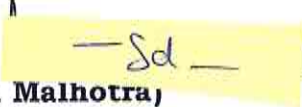
5. The Operational Creditor has not proposed the name of Insolvency Resolution Professional.

6. Accordingly, Mr. Ashok Kumar Registration No. IBBI/IPA-001/IP-P00847/2017-18/11430 Email ID: gargashokca@gmail.com is appointed as the IRP from the panel of eligible Resolution Professionals as submitted by IBBI. He is directed to take all steps as are statutorily required of him under the Code, specifically u/s 15, 17 & 18, 20 & 21 and shall file his report before the Adjudicating Authority at the end of his tenure as an IRP.

7. The Operational Creditor is directed to deposit a sum of Rs. 2 Lakhs to meet the immediate expenses required for the Resolution Process to be duly accounted by the IRP. This amount shall be reimbursed to the Operational Creditor by the COC, and recovered as cost of the CIR process.



8. Copy of the order be given/emailed to the Operational Creditor & the Corporate Debtor.
9. To come up for the report on 22nd April, 2019 for an Interim Report.

 — Sd —
(Ina Malhotra)

Member (J)