

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

IB-552(ND)/2018

In the matter of

CG Power and Industrial Solutions Ltd.
(Formerly Crompton Greaves Limited)
CG House, 6th Floor, Dr. Annie besent Road
Worli, Mumbai- 400030

...Operational Creditor

Vs.

Effimac Equipments Pvt. Ltd.
W-8-A Green Park (Main),
New Delhi-110016

....CorporateDebtor

Order delivered on 04.06.2018

SECTION: 9 of IBC, 2016

CORAM:

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

SMT. DEEPA KRISHAN, HON'BLE MEMBER (T)

Present: Mr. Gautam Swarup, Advocate for Operational Creditor
Respondent proceeded ex parte

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The present petition has been filed under Section 9 of Insolvency Bankruptcy Code (hereinafter referred to as the "Code") praying for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor for its inability to liquidate its outstanding dues.

2. As per averments, the petitioner being an Operational Creditor is one of the market leaders providing end to end solutions in power supply products and equipments. The Corporate Debtor had placed a Purchase Order dated 13.05.2016 bearing No. EEPL/16-17/P-75/1415 pursuant to which the Operational creditor supplied equipment on 18.10.2016 and raised the Invoice on 30.09.2016. The total consideration under the invoice was for Rs. 6,24,887/-. The terms of supply and payment were expressly provided for and agreed between the parties and the goods were delivered to the satisfaction of the Corporate Debtor.

3. The Operational Creditor has maintained a running account for the equipment supplied to the Corporate Debtor and as per their statement, a balance of Rs. 2,65,887/- is outstanding after receipt of Rs. 3.6 Lakhs from the Corporate Debtor. This outstanding liability has not been liquidated despite repeated requests and reminders, though the Corporate Debtor kept assuring that payment would be made as they were in the

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process of arranging funds. Cheques were tendered as payments which all returned dishonoured on account of Insufficient Funds.

4. It is in this background that the Operational creditor prays for initiation of the Insolvency Resolution Process against Corporate debtor as they are unable to liquidate its debt. The Operational Creditor has also claimed Interest thereon till the date of actual payment.

5. On account of the Corporate Debtor's inaction, the Operational Creditor issued a demand notice on 14.02.2018 as required under Section 8 of the Code demanding a sum of Rs. 2,65,887/-, being the principal amount with further interest accruing, thereon. The said notice was duly accompanied by the copies of the invoices. No reply to the same was received.

6. In view of the failure of the Corporate Debtor to liquidate its entire outstanding liability even after the receipt of the Demand notice, the present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Compliance under Section 9 (3) (b) and 9 (3)(c) of the Code have been made.



7. Steps to serve the Corporate Debtor were taken vide all modes including through the Process of the Bench. Despite service, none appeared on their behalf and they were accordingly proceeded ex parte.

8. Keeping in view that there is neither any dispute raised in respect of the claim, nor any resistance to the petition, the prayer made by the Operational Creditor merits consideration. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith staying:s

“(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.”

9. The Operational Creditor has not proposed the name of any Interim Resolution Professional. In view of the same, we appoint Mr. Ashish Kumar Batta IBBI/IPA-001/P00437/2017-2018/10760 from the

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IBBI's Panel of approved IRPs, as the IRP in this case. He is accordingly being confirmed by this Bench as the IRP in this case. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.

10. 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 for by the IRP.

11. The IRP is directed to file his report within the statutory period.

12. Copy of the order be sent to both the parties as well as to the IRP.

13. Be listed for further consideration on 16th July, 2018.

-Sd-

(Deepa Krishan)
Member (T)

-Sd-

(Ina Malhotra)
Member (J)