

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB) - 1091(ND) 2018

In the matter of
Pro Sportify Private Limited
Registered Office at Plot No. 243, Near ACC Cement Factory
Opp. Haldiram Khandasa Road
Village Mohammadpur, Jharsa
Gurgoan -122001

.... Petitioner

V/s

M/s Vivid IT Solutions Private Limited
Registered Office at 43, 4th Floor, Deepak Building
13 Nehru Place, New-Delhi- 110019

.... Respondent

SECTION: 9 of IBC, 2016

Order delivered on 17.10.2018

Coram:

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

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

For the Petitioner (s) : M^s. Mudrika Bansal, Advocate
For the Respondents (s): Exparte

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 for its inability to liquidate its Operational debt. As per the averments, the Operational Creditor is engaged in the business of sports management and conducts an annual wrestling league in India under the name and style of Pro Wrestling League.

2. The Operational Creditor, as a Franchisor, gives the franchise rights of different state teams to interested corporates for payment of an annual Franchisee Fee. In November, 2017, the Corporate Debtor, Vivid IT Solutions Pvt. Ltd approached the Operational Creditor for the franchisee rights of the Maharashtra Team for Season-3 of the Pro- Wrestling League to be held in January, 2018. An Agreement dated 01.12.2017 was executed between the parties. In terms thereof the Corporate Debtor agreed to pay Rs. 3 Crores within 60 days from the date of player's auction. Besides the Franchisee Fee, the Corporate Debtor was also required to make payment of Rs. 2,00,00,000/- directly to the players who participated in the wrestling league. The Corporate Debtor made payment of Rs. 1,50,00,000/- to the Operational Creditor in tranches over a period of time towards the Players fees.

3. As per averments made by the Operational Creditor, the Corporate Debtor requested for a discount in the franchise fees citing financial

problem. The Operational Creditor agreed to give a discount of Rs. 50,00,000. Therefore, the Franchisee Fee was reduced to Rs. 2,50,00,000/- which along with the GST remains unpaid. This amount was to be paid by 22.02.2018. The Corporate Debtor had tendered a cheque of Rs. 2 Crores on 15.01.2018, which returned dishonoured on grounds of Insufficient Funds.

4. In view of the failure of the Corporate Debtor to liquidate the outstanding liability, the Applicant/Operational Creditor issued a demand notice under Section 8 of the Code dated 17.05.2018 for payment of the Principal amount, GST and the Interest liability. No reply was received. The petitioner has thereafter filed the present petition 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. In addition to the above, they have also attached the Copy of Franchisee Agreement, photocopies of the dishonoured cheques and the returned memos. The statement of their Bank account does not reflect credit of the amounts under the dishonoured cheques or thereafter.

5. The respondent was served through the process of the Bench but none appeared on their behalf. They were therefore proceeded ex-parte.

4. In view of the aforesaid uncontroverted facts and in absence of any dispute, the submission that an Operational debt exists, the prayer of the Operational Creditor merits consideration. Accordingly, the Petition is Admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith, staying

(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 debt 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.

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(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.”


6. The Operational Creditor has not proposed the name of any Interim Resolution Professional. In view of the same, we appoint Mr. Akash Shinghal, registration no. IBBI/IPA-001/IP-P00137/2017-2018/10279, email- akash@ajco.net, 9868145676 empanelled with the IBBI's as an approved IRP. 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.

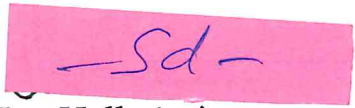
7. The Operational Creditor is directed to deposit a sum of Rs. 2 Lakhs to meet the immediate expenses required for the Resolution Process to be duly accounted for by the IRP.



8. Copy of the order be given/emailed to the Operational Creditor & the Corporate Debtor as well as to the IRP for immediate compliance.

9. To come up for the report on 20th November, 2018 for an Interim Report.


(Deepa Krishan)
Member (T)


(Ina Malhotra)
Member (J)