

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1095(ND)/2019

In the matter of

Ritu Tandon
R/o: E-8/8, Vasant Vihar
New delhi- 110057

.....Operational Creditor

V/s

M/s. Rain Automotive India Pvt. Ltd.
Office at: 1187/7, Nai Walla
Karol Bagh
New Delhi- 110057

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on 14.06.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present:

Mr. Nakul Mohta & Mr. Misha Rohtagi
Advocates for the Petitioner
Respondent proceeded ex parte

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

1. This petition has been filed by the Operational Creditor, on grounds of the Corporate Debtor's failure to liquidate its outstanding debt liability, arising out of their obligation to pay the rent.

2. As per averments, the Operational Creditor had leased out an immovable premise to the Corporate Debtor vide a registered lease deed dated 18.10.2016 being Industrial property bearing no. F-11, block-B01, situated in Mohan Co-operative Industrial Area, Badarpur, Mathura Road, New Delhi. The initial lease rent agreed to be paid was fixed at Rs. 3,75,000/-+GST which was subject to being enhanced by 5% every year. The Operational Creditor has stated that the Corporate Debtor has not deposited the TDS from April 2018 to November 2018, nor the rent due from December, 2018 till March, 2019. The total outstanding liability towards aforesaid is R. 23,04,284/-. In addition, there are unpaid electricity bills of to Rs. 47,363/-. Despite various requests and reminders, the Corporate Debtor has failed to liquidate the outstanding liability constraining, the Operational Creditor to issue a Demand Notice dated 14.02.2019 under Section 8 of the Insolvency & Bankruptcy Code. It is submitted that no reply was received to the said demand notice, neither is there any pre-existing dispute in respect of the Operational

Debt. The present petition has been filed in the required format complying with the provisions of Sections 9(3) (b) & 9(3) (c) of the Code.

3. On steps being taken to serve notice of this petition on the Corporate Debtor, none appeared on their behalf. They were therefore proceeded ex parte.

4. In the light of the aforesaid facts, Ld. Counsel for the Operational Creditor presses for grant of his prayer. Given the facts and circumstance of the case that no defence has been put forth on behalf of the Corporate Debtor, nor any pre-existing dispute brought to our notice, the petitioner entitled to the prayer made for initiating the Corporate Insolvency Resolution Process of the Corporate Debtor. Accordingly, this petition is Admitted. A moratorium in terms of Section 14 of Code comes 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 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 any IRP. Accordingly, we appoint Mr. Akarsh Kashyap, Registration No. IBBI/IPA-001/IP-P00566/2017-2018/11042, email: akashyap2002@yahoo.com, Mobile No. 09810063151 duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17,18,20 and 21 and file her report.
6. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.
7. Copy of the order be communicated to both the parties as well as to the IRP.
8. To come up on for further consideration.


(V.K. Subburaj)
Member (T)


(Ina Malhotra)
Member (J)