

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P.(IB)No.101/BB/2018  
U/s 8 & 9 of IBC, 2016  
Under Rule 6 of I&B (AAA) Rules, 2016

**In the matter of:**

**Mr. R.N.Manoharan**

11/1, 4<sup>th</sup> Cross,  
Ayyappa Nagar,  
Jalahalli West,  
**Bangalore - 560 015.**

- Applicant/Operational Creditor

**Versus**

**M/s. GCL Pvt. Ltd.,**

No.419/420, 10<sup>th</sup> Main Road,  
2<sup>nd</sup> Stage, Peenya Industrial Estate,  
**Bangalore - 560 058.**

- Corporate Debtor

**Date of Order: 01<sup>st</sup> May, 2019**

**Coram:** 1. Hon'ble Shri Ratakonda Murali, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Petitioner : Shri Abhijit Atur & M/s. Akhila M.S  
For the Respondent : Shri A. Murali & Ms. Jyothi Anumolu

**ORDER**

**Per:** Ratakonda Murali, Member (Judicial)

1. C.P.(IB)No.101/BB/2018 is filed by **Mr.R.N.Manoharan** (Applicant/Operational Creditor) u/S 8 & 9 of IBC, 2016, R/w Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter-alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of

**M/s. GCL Pvt. Ltd** (Corporate Debtor) on the ground that the Corporate Debtor failed to pay an outstanding amount of Rs.20,70,807/- (Rupees Twenty Lakhs Seventy Thousand Eight hundred and Seven only).

2. Brief facts of the case, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:

- 1) Mr.R.N.Manoharan (herein after referred as Applicant/Operational Creditor) is an individual who was an employee of the Corporate Debtor for over 24 years.
- 2) M/s. GCL Pvt. Ltd (herein after referred as Corporate Debtor) was incorporated on 03.04.1996 under the laws of India. Its Share Capital is Rs. 7,00,00,000/- (Rupees Seven Crores only) and Paid up Share Capital is Rs.5,99,00,000/- (Rupees Five Crore Ninety Nine Lakhs only).
- 3) The Operational Creditor was employed as a full time employee of the Corporate Debtor (M/s.GCL Pvt. Ltd) from the year 1993. After 22 years of service, the Operational Creditor attained super-annuation in the year 2015 and retired from the post of Chief Operating Officer. Thereafter on 17.12.2015, Corporate Debtor issued a Retainership Agreement and accordingly the Operational Creditor was engaged by the Corporate Debtor as 'Director-Technical and Operations' on a monthly retainer ship. The Operational Creditor provided his services to the Corporate Debtor from December 2015 till September 2017.
- 4) In August – September 2017, due to personal reasons, the Operational Creditor resigned from his post of 'Director – Technical and Operations' and his resignation was duly accepted vide letter dated 25.09.2017 issued by the Corporate Debtor. The Corporate Debtor issued a letter dated 23.09.2017

outlining the full and final settlement amounting to Rs.22,70,807/- (Rupees Twenty Two Lakhs Seventy Thousand Eight Hundred and Seven only) due to the Operational Creditor. The Corporate Debtor agreed to pay the amount in three instalments. However the Corporate Debtor failed to make payments and paid a sum of Rs.2,00,000/- (Rupees Two Lakh only) on 11.01.2018 and 14.02.2018.

- 5) It is averred despite admitting its liability, the Corporate Debtor failed to make good the dues payable to the Operational Creditor even after repeated requests and correspondences. The Corporate Debtor admitted that it was facing severe cash flow problems and was not in a position to make payments to the Operational Creditor. Subsequently, the Operational Creditor issued a demand notice dated 02.04.2018 in Form No.3 under the Insolvency and Bankruptcy Code, 2016. The Corporate Debtor received the demand notice on 03.04.2018 and issued a reply on 12.04.2018, stating the management is presently unavailable. It is submitted that the Corporate Debtor has not raised any dispute against the debt owed to the Operational Creditor and the debt stands admitted.
  - 6) Since the Corporate Debtor has failed to pay the outstanding amount, the Operational Creditor has filed present Petition to initiate CIRP.
3. Heard Shri Abhijit Atur, learned Counsel for Petitioner/Operational Creditor; Shri A. Murali, learned Counsel for Corporate Debtor. We have carefully perused the pleadings of both the parties and the provision of the Code.



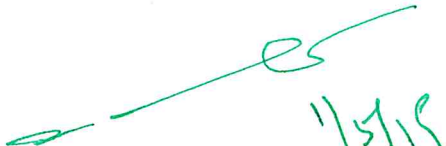
4. In this case Corporate Debtor has not filed reply/counter. We have heard the Counsel for Operational Creditor and also the Counsel for Corporate Debtor. Petitioner is Operational Creditor. He has filed present Petition U/s 9 of IBC, 2016. The Operational Creditor filed letter of appointment dated 17.12.2015, it is shown as (Annexure-E) at page No.26-28 of the paper booklet filed. Thus, Operational Creditor was appointed as Retainer in the capacity of "Director – Technical and Operations – Independent charge.
5. Operational Creditor further relied on full and final settlement letter issued by Corporate Debtor dated 23.09.2017. Thus, Corporate Debtor admitted the liability. The full and settlement details are shown in the document (Annexure – F) at page No.29-30.
6. Operational Creditor further relied on demand notice marked as (Annexure-J) at page No.41-48 dated 02.04.2018, claiming Rs.22,70,807/- and amount of default is shown as 20,70,807/-. The notice was delivered. Reply is also filed which is shown as (Annexure-K). Thus, Operational Creditor is able to establish debt and default.
7. The Corporate Debtor did not dispute the debt and also the default. Therefore, Petition is to be admitted against the Corporate Debtor.
8. The Operational Creditor has suggested the name of Shri Shivadutt Bannanje as proposed IRP who has filed written communication in prescribed form. He is qualified to be appointed as IRP.
9. In the circumstances, there are ground to admit the Petition. This Tribunal passed the following order:
10. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority,

U/s 9(5)(i) and other provisions of the IBC, 2016, the following orders are passed:

- 1) CP(IB)No.101/BB/2018 is hereby admitted by initiating Corporate Insolvency Resolution Process (CIRP) in respect of M/s.GCL Private Limited, Corporate Debtor;
- 2) Shri Shivadutt Bannanje, bearing Registration No.IBBI/IPA-002/IP-N00266/2017-2018/10779, who is qualified Resolution Professional, is hereby appointed as Interim Resolution Professional, in respect of the Corporate Debtor to carry on the functions as mentioned under the Insolvency and Bankruptcy Code, 2016 and various rules issued by IBBI from time to time;
- 3) The following moratorium is declared prohibiting all of the following, namely:
  - a) the 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) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;

- e) 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;
- f) 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.
- g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;
- h) The IRP should follow all extant provisions of IBC, 2016 and the rules including fees rules as framed by IBBI. The IRP is hereby directed to file his report in the Tribunal from time to time.
- 4) The Board of Directors and all the staff of Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.
- 5) IRP is further directed to strictly adhere time schedule as mentioned under the Code and he is directed to file progress reports from time to time to the Tribunal.
- 6) Post the case for submission of report of the IRP on **10.06.2019.**

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL