

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 16.07.2019

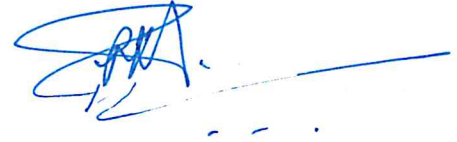
PRIORITY CAUSE LIST – 1

PRESENT: 1. Hon'ble Member (J) Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T) Dr Ashok Kumar Mishra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 48/BB/2018	For admission	Sec 9 of I&B Code 2016	Vishwas Concrete Pvt Ltd	A Murali Advocate	Pranee Infrastructures Pvt Ltd	Shri Sampanth Kumar T k Advocate

ADVOCATE FOR PETITIONER/s:

Perikal. K. Arjun
9341210037




ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Shri Perikal.K.Arjun, learned Counsel for Petitioner.


C.P(IB) No.48/BB/2018 is admitted vide separate order.

Post the case for report of IRP on **19.08.2019**.


MEMBER(T)


MEMBER(J)

Raushan



Court Officer

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

C.P. (IB) No. 48/BB/2018
U/s 9 of IBC, 2016
R/w Rule 6 of I&B(AAA) Rules, 2016

In the matter of:

M/s.Vishwas Concrete Private Limited,
Represented by its Director,
Mr.B.R.Vishwas
Registered office at: 80/85,
3rd Main Road, New Tharagupet,
Bangalore-560 002.

- Petitioner /Operational Creditor

Versus

M/s.Pranee Infrastructures Private Limited.
No.10, 10th Cross, 1st Block,
Aneppa Circle TC Palya Main Road,
Akshaya Nagar, Ramamurthy Nagar
Bangalore – 560 003.

- Respondent/Corporate Debtor

Date of Order: 16th July, 2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsel Present:

For the Petitioner : Shri Perikal K.Arjun
For the Respondent : None

ORDER

Per: Rajeswara Rao Vittanala, Member (Judicial)

1. C.P. (IB) No.48/BB/2018 is filed by M/s.Vishwas Concrete Pvt. Ltd.(Petitioner/Operational Creditor') under Section 9 of the IBC, 2016, R/w Rule 6 of the I&B (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s.Pranee Infrastructures Pvt. Ltd. ('Respondent/Corporate Debtor'), on the ground that the

Corporate Debtor committed default for an amount of Rs.17,56,500/- (Rupees Seventeen Lakhs Fifty Six Thousand and Five Hundred only) along with interest calculated at 24% p.a from the date of due till the date of payment, is due to the Petitioner herein from the Respondent.

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

(1) M/s.Vishwas Concrete Private Limited (Petitioner), represented by its Director, Mr.B.R.Vishwas, CIN No.U26956KA2010PTC052128, Registered office at : 80/85, 3rd Main Road, New Tharagupet, Bangalore - 560 002.

(2) M/s.Pranee Infrastructures Private Limited (Respondent) was incorporated on 18.09.2013. The Authorized share capital of the Company is Rs.50,00,000/- and Paid up Share capital of the Company is Rs.35,00,000/-. The Respondent approached the Petitioner to purchase ready mix concrete for the purpose of using the same for the project undertaken by the Respondent situated at ISRO Housing Colony, near HMT school, Jalahalli, Bengaluru - 560 031.

(3) It is stated that despite several attempts to recover the said dues, the Respondent failed to make payments. With no other option available to the Petitioner, the Petitioner issued a demand notice in terms of Section 8 of the I&BC, 2016 dated 13.11.2017. The said demand notice was returned to the Petitioner bearing as endorsement as 'Not Claimed'.

(4) Subsequently, the Respondent herein made a payment of Rs.3,00,000/- on 21.12.2017 and the same was made only towards part payment of the entire debt of Rs.20,56,500/-. It is also stated that the Respondent is unable to pay its other creditors as well and is not financially solvent.

(5) Hence, left with no other option, the Petitioner has filed the instant Petition claiming a sum of Rs.17,56,500/- along with interest at the rate of 24% p.a, due.

3. Heard Shri Perikal.K.Arjun, learned Counsel for the Petitioner. None appears for the Respondents. We have carefully perused the pleadings of the party and extant provisions of the Code and law.
4. The case was listed for admission on various dates viz. 27.02.2018, 09.03.2018, 22.03.2018, 03.04.2018, 13.04.2018, 08.05.2018, 13.06.2018, 11.07.2018, 01.08.2018, 13.08.2018, 27.08.2018, 18.09.2018, 05.10.2018, 26.11.2018, 20.12.2018, 29.11.2018, 22.01.2019, 19.02.2019, 22.02.2019, 19.03.2019, 16.04.2019, 07.05.2019, 09.05.2019, 17.06.2019, 27.06.2019, and 16.06.2019 and it was adjourned on these dates at the request of party, on one ground, or the other.
5. During the course of hearing, the Adjudicating Authority ordered notice on 13.04.2018 to the Corporate Debtor. Accordingly, Registry has issued a notice dated 11.05.2018. Shri Venkateswar, Director of the Respondent Company was present on 13.06.2019. Subsequently, on several occasions neither the Respondent/nor any body represents it. Shri Sampath Kumar T.K, has filed a Vakalat for the Respondent on 10.07.2018. However, the Respondent has not file any objection till date. Even the Respondent did not given a reply to

the Demand notice dated 13.11.2017 issued by the Petitioner, though it was acknowledged. The Adjudicating Authority has already granted sufficient time to the Respondent. In spite of the same, the Corporate Debtor failed to avail the opportunity given to it. Therefore, there is no other alternative for Adjudicating Authority except to proceed with the case.

6. Shri Perikal K.Arjun, learned Counsel for Petitioner, while pointing out various averments made in the Petition and Summary, as briefly stated supra, has further submitted that the debt and default in question are not opposed by the Respondent and the instant Company Petition is filed in accordance with law, and also suggested a qualified Resolution Professional namely Mr. Vinod Sunder Raman, with Registration No. IBBI/IPA-002/IP-N00075/2017-18/10206, who has also filed written Consent in Form-2 dated 15.07.2019, who is eligible to be appointed as IRP.
7. As stated supra, that the offer was made by the Pranees Infrastructures Private Limited ("PIPL") to purchase the ready mix concrete at Bangalore, the Petitioner VCPL by accepting the offer supply ready mix concrete to the Respondent as per their requirement. The ready mix concrete was supplied for the purpose of utilization in a project situated at ISRO Housing Colony, Near HMT School, Jalahalli, Bangalore 560 031. Accordingly, several invoices have raised starting from 31.05.2017 to 17.06.2017 total 20 invoices were issued to the Respondent. As per terms of the invoices, the invoices amount has to be paid within 45 days and it carries 24% p.a, if the claimed amount has not paid within due date. The Petitioner has also issued a Demand Notice dated 13.11.2017 to the Respondent, by inter alia demanding to pay the outstanding

amount of Rs.20,56,500/- and the same was sent to the RPAD and proof is also filed along with this Petition and the Petitioner is also filed Bank Account Statement of the Company, maintained with the National Co-Op Bank Ltd, Gandhi Bazaar Main Road, Bengaluru – 560 004, to show that the Respondent has not paid any amount as demanded by it. As detailed supra the Respondent has failed to avail the opportunity given by the Adjudicating Authority. Therefore, the outstanding amount of Rs.17,56,500/- is established. Therefore, the instant Company Petition is a fit case to initiate CIRP etc.

8. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority, under Section 9(5)(i) and other extant provisions of the Code, C.P. (IB) No.48/BB/2018 is hereby admitted with the following consequential directions:

(1) We hereby appointed **Shri Vinod Sunder Raman** with **Regn.No.** IBBI/IPA-002/IP-N00075/2017-18/10206, as the Interim Resolution Professional (IRP) to conduct the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor namely M/s.Pranee Infrastructures Private Limited to carry out the functions as mentioned under the I&B Code, 2016 and the Rules framed by the IBBI from time to time.

(2) 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 Securitization 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 transaction as may be notified by the Central Government in consultation with any financial regulator.
 - g. The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process.
- (3) The IRP is directed to follow all extant provisions of the IBC, 2016 and the Rules including fees rules as framed by the IBBI from time to time.
- (4) The Board of Directors and all the staff of the Corporate Debtor are hereby directed to extend full co-operation to



the IRP, in carrying out her functions as such, under the Code and Rules made by the IBBI.

(5) The IRP is directed to file her progress reports to the Adjudicating Authority from time to time about the steps taken in pursuant to the CIRP. The IRP is further directed to take expeditious steps so as to complete the process of CIRP within the stipulated time.

(6) Post the case for report of the IRP on **19th August, 2019.**


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Raushan