

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD
SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)
PRESENT: HON'BLE SHRIMADAN BHALCHANDRA GOSAVI- MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.07.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 307/9/HDB/2020
NAME OF THE COMPANY	Surya Chakra Energy and Nastructure Pvt Ltd
NAME OF THE PETITIONER(S)	K Kasi Vishwanadham
NAME OF THE RESPONDENT(S)	Surya Chakra Energy and Nastructure Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

The petition is admitted vide separate order.


**MEMBER
(TECHNICAL)**

Karim


**MEMBER
(JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.307/9/HDB/2020
Petition under section 9 of IBC, 2016
Read with Rule 6 of I & B (AAA) Rules, 2016

BETWEEN

Shri K.Kasi Vishwanadham
S/o. K.Babu Rao,
Ganganapalli,
Kakinada-533006.

.. **Petitioner/
Operational Creditor**

AND

M/s Suryachakra Energy and Infrastructure Private Limited
Plot No.304-L-III, II floor,
Road No.78, Jubilee Hills,
Hyderabad-500 033.

.. **Respondent
Corporate Debtor**

Date of order: 16.07.2021

Coram:

Hon'ble Madan Bhalchandra Gosavi, Member (Judicial)

Hon'ble Veera Brahma Rao Arekapudi, Member (Technical)

Parties / counsels present:

For the Petitioner: Ms.J.V.L.Bharati, Advocate.

For the Respondent: Mr. T.Upendir, Director.

Heard on: 08.07.2021



PER BENCH

This petition is filed by Mr.Kasi Vishwanadham, who is the Operational Creditor, stating that an amount of Rs.5,95,600/- (Rupees Five Lakhs Ninety five thousand six hundred only) @18% interest is due from the Corporate Debtor towards supply of prawn seeds as on 15.04.2019. Hence this petition is filed under section 9 of Insolvency and Bankruptcy Code, 2016, read with Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments made in the petition are as follows:
- a. The Operational Creditor is engaged in supply of prawn seeds to Aqua culture firms on cash and also on credit basis depending upon the client and quantity of order. Operational creditor is the supplier of prawn seeds to corporate debtor since last 2-3 years on contract basis and corporate debtor used to clear the bills within reasonable time.
 - b. It is averred that in the beginning of 2019, corporate debtor requested operational creditor for huge supply of prawn seeds as they are intending to export to other states. Thus Operational creditor entered into an MOU dated 26.03.2019 with Corporate Debtor for supply of prawn seeds on 30 days credit with a condition that interest to be paid @18% beyond 30 days.
 - c. Thus operational creditor based on MOU supplied 1861.25 Kgs of prawn seeds worth Rs.5.96 Lakhs by credit invoice dated 15.04.2019. Invoices raised is annexed at ANNEXURE 3 to the petition.



- d. Copy of letter sent to corporate debtor dated 26.08.2019 for payment of dues is annexed as ANNEXURE 4 to the petition. Subsequently, Applicant/Operational creditor received a reply from corporate debtor dated 24.09.2019 requesting time for making payment.
- e. Operational creditor thus issued Form-3 and Form-4 which is annexed as Annexure-6 to the petition. Since there is no effective payment by the Corporate Debtor, this petition is preferred.

3. COUNTER DATED 03.02.2021 FILED BY THE CORPORATE DEBTOR.

The respondent-corporate debtor has filed counter affidavit dated 03.02.2021. The averments made in the counter are as follows:

- a. Corporate Debtor has accepted that the petitioner has supplied prawn seeds and thus raised the bill. But due to slump in business and competition in the market, they are not able to clear the bill.
 - b. The Corporate Debtor accepted that it owes the amount described in the petition to the operational creditor and stated that they don't have any means of making payment due to tremendous financial pressure. He further stated that it is not possible for the Company to make payment to any creditor.
4. Heard the Counsel for Operational Creditor. The Petitioner is Operational Creditor. The Petitioner filed the present petition under Section 9 of IBC, 2016. It is the case of the petitioner that it has supplied prawn seeds to the Corporate Debtor vide Invoices produced at ANNEXURE III. The Corporate Debtor has to pay Rs.5,95,600/- @ 18% as on 15.04.2019. There is no





dispute about the goods supplied by the Operational Creditor and the Corporate Debtor receiving the same. The Corporate Debtor sent a reply/ affidavit to the Tribunal dated 03.02.2021 accepting the debt and thus requesting time from the Operational Creditor with regard to the financial crisis faced by the Corporate Debtor.

5. We have gone through the petition filed by the operational creditor, Reply Affidavit filed by the director of the corporate debtor. We have perused the invoices raised by the operational creditor and bank statement annexed at pages 18 and 26 of the petition. We have also perused the reply given by corporate debtor for default of payment and the notices sent by petitioner in Form 3&4. In view of the matter, we are of the opinion that the present petition needs to be admitted under section 9 of the IB Code. The counsel for the operational creditor has proposed the name of Interim Resolution Professional i.e Mr. Rachamallu Ramachandra. Form 2 has been filed by him.
6. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -
 - (a) The Bench hereby prohibits 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; transferring , encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest



therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- (b) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) That the order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (f) That this Bench hereby appoints Mr. Rachamallu Ramachandra Reddy , Address: Flat No.508, Block A1, TVS Lake View Apartments, Road No.10, Near



Ramalayam, Panchavati Colony, Manikonda, Hyderabad -500 089, Mobile Number: 9441279037 having IBBI Registration No. IBBI/ IPA-001/ IP- P- 01472/ 2018-19/ 12270, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Accordingly, this Petition is admitted.

- (g) The Applicant/Operational Creditor is directed to deposit an amount of Rs.2 Lakhs with the IRP to meet the initial CIRP expenses including the fee of IRP.
- (h) Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


Veera Brahma Rao Arekapudi
Member Technical


Madan Bhalchandra Gosavi
Member Judicial

Pavani