

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 09.09.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 184/BB/2020	For pronouncement of orders	Sec 9 of I&B code 2016	Aster Technologies Pvt Ltd	Manoranjan, VGB Associates	Solas Fire Safety Equipment Pvt Ltd	

ADVOCATE FOR PETITIONER/s:

MR. DIVESH KUMAR SABHARW

ADVOCATE FOR RESPONDENT/s:

ORDER

CP (IB) No. 184/BB/2020 is disposed of by separate order.



MEMBER (T)



MEMBER (J)

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

C.P. (IB)No.184/BB/2020
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

Between :

M/s. Aster Technologies Private Limited

Represented by its Director

Mr. Sunil Khanna

A-2, Second Floor, Shopping Centre,
Naraina Industrial Area, Phase-II,
New Delhi – 110 028.

- Petitioner/Operational Creditor

And

**M/s. Solas Fire Safety
Equipment Private Limited**

No.2, 1st Main Road,
Vasanthnagar,
Bangalore – 560 052.

- Respondent/Corporate Debtor

Date of Order: 09th September, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Ms. Manoranjani

For the Respondent : None

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.184/BB/2020 is filed by M/s. Aster Technologies Private Limited ('Petitioner/Operational Creditor') under Section 9 of the IBC, 2016, R/w Rule 6 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Solas Fire



Safety Equipment Private Limited, on the ground that it has committed default for an amount of Rs.4,35,487.50/- (Rupees Four Lakh Thirty Five Thousand Four Hundred Eighty Seven and Fifty Paise Only) along with interest thereon @18% per annum.

2. Brief facts of the case, as mentioned in the Company Petition, are as follows:

- (1) M/s. Aster Technologies Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor') is a Company incorporated under the Companies Act, 1956, having CIN: U74899DL1998PTC033500. The Company is engaged in the business of manufacturing, supplying and trading of Commercial Food Service Equipment, Refrigeration Equipment etc.
- (2) M/s. Solas Fire Safety Equipment Private Limited is a Company incorporated under the Companies Act, 1956, on 18.07.2002, having CIN: U29299KA2002PTC030780. Its Authorized Share Capital is Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh Only) and Paid-up Share Capital of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakh Only).
- (3) The Corporate Debtor, placed its work order dated 27th May 2016 for installation of piranha, fire Suppression System at first floor and NBS JLL on Ground Floor of M/s. NETAPP, New Bangalore Site, Phase-I, Building-1 located at Mahadevapura, Bangalore-560048. The Operational Creditor duly accepted the order dated 27.05.2016 and supplied the required material and completed the work assigned to it. Subsequently to supply of materials and installation of piranha, fire Suppression System, an invoice bearing No. ASTER/2016-17/IC113 dated 09.11.2016 for an amount of Rs.4,76,962.50/- was raised against the Corporate Debtor. The Corporate duly accepted that invoice and also deducted the TDS@ of 10% amounting to



Rs.41,475/-. However, the Corporate Debtor failed to pay the balance amount of Rs.4,35,487.50/-.

(4) In spite of several requests and reminders to make payment of the outstanding sum, the Corporate Debtor failed and neglected to make payment amount due. The Operational Creditor on 24.02.2018 constrained to issue legal calling upon the Corporate Debtor to pay the aforesaid sum. The Corporate Debtor through its reply letter dated 13.03.2018, acknowledge the debt due and made assurance that payment would be cleared in next 30 days. However, till date, the Corporate Debtor has not showed any interest in making the payment. Again, another Demand Notice dated 04.10.2019 was issued to the Corporate Debtor, U/s 8 of the Code, through their Counsel, on the registered office of the Corporate Debtor. No notice of dispute received thereafter within stipulated period of 10 (ten) days. The Corporate Debtor almost after a span of two months, gave an evasive reply to the said notice on 13.12.2019. From a bare perusal of balance sheet and profit and loss account for the FY 2018-19 of the Corporate Debtor, there is a possibility that the value of the Corporate Debtor may deteriorate further and the Operational Creditor may not be able to get payment for supply of materials.

(5) The Operational Creditor is small Company and due to default committed by the Respondent, the operational cycle was badly hit and they had to bring in additional funds from other sources to run the business.

3. Heard Ms. Manoranjan, learned Counsel for the Petitioner. None appeared for the Respondent. We have carefully perused the pleadings of the party and the extant provisions of the Code and the law on the issue.
4. The Adjudicating Authority, has ordered notice on 22.06.2020 to the



Corporate Debtor as well as its MD. The Learned Counsel claimed that notice has been served on the Corporate Debtor, as ordered. However, none appears for the Respondent. In pursuance to order placed by the Respondent, the Petitioner stated to have supplied requisite goods and service to their satisfaction. Accordingly, the Respondent has addressed a letter dated 13.03.2018 to the Petitioner by *inter-alia* stating that due to some un-avoidable circumstances, payments are delayed from their clients and funds flow was also not good since financial year ending, promised to clear the dues within 30 days period. When the Respondent failed to honour their promise, the Petitioner has issued demand Notice dated 04.10.2019 under the provisions of Code, and thereafter the Respondent raised dispute vide their Reply dated 13.12.2019. The contentions raised in the Reply is totally contrary to their earlier letter dated 13.03.18, and these contentions/allegations are not all tenable and they cannot constitute valid and legal dispute. Since the Respondent did not appear before the Adjudicating Authority, the amount involved in the case is mere Rs.4.35 lakhs, and initiation of CIRP is not a solution for the Petitioner, which is small entrepreneur and operational Creditor. Operational. And chances of getting dues of Operational Creditors are very less in comparisons to secured Creditors.

5. For the aforesaid reasons and circumstances, we are of considered view that instead of keep the case pending for service of notice on the Respondent and getting their reply, interest of both the parties would be met, if the Petition is disposed of by directing the Respondent to settle the issue in question within a stipulated period. We are not inclined to pass adverse order against the Respondent at Present and give one opportunity to the Respondent to settle the issue.



6. In the result, **C.P.(IB)No.184/BB/2020** is hereby disposed of by directing the Respondent to settle the issue in question, failing which the Petitioner is at liberty to file fresh Company Petition in accordance with law. The Registry is directed to issue a copy of this order to both the Parties. No order as to costs.



**(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL**

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