

In the National Company Law Tribunal,
Kolkata Bench, Kolkata

CP (IB) No.463/KB/2017

In the matter of:

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| Bard Roy Infotech Pvt. Ltd. | -Versus- |Operational Creditor |
| Heritage Health Insurance TPA Pvt. Ltd. | |Corporate Debtor |

Order Delivered on 26th October 2017

Coram:

V. P. Singh, Member (J)

Jinan K.R. Member (J)

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| For the Petitioner | : | 1. Mr Ratnanko Banerjee, Advocate 2. Mrs Manju Bhuteria, Advocate 3. Mr. Nirmalya Dasgupta, Advocate 4. Ms. Aryaa Chatterjee, Advocate |
| For the Respondent | : | 1. Mr Asutosh Banerjee, Advocate 2. Mr. Kanak Mitra, Advocate 3. Mr. A.P. Agarwalla, Advocate |

ORDER

Per: V. P. Singh, Member (J)

The petitioner has filed this application under Sec.9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as I & B Code) 2016 read with Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as Adjudicating Authority Rules, 2016) for initiation of corporate insolvency process against corporate debtor Heritage Health Insurance TPA Pvt. Ltd.

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2. Brief facts of the case are the following: -

The applicant operational creditor is Brad Roy Infotech Pvt. Ltd. whose identification No. is U72200WB1995PTC075654 and having its registered office at 10/4B, Elgin Road, 1st Floor, Kolkata – 700 020. The Corporate debtor is Heritage Health Insurance TPA Pvt. Ltd. whose identification No. is U85195WB1998PTC088562 having its registered office at 3, Netaji Subhas Road, Kolkata – 700 001.

3. The petitioner has stated that the respondent/corporate debtor had appointed the petitioner/operational creditor to act as a smartcard service provider for their project located at Bargarh, Orissa. The petitioner/ operational creditor was required to provide its service about the enrollment of beneficiaries covered under the Rashtriya Swasthya Bima Yojna (in short, RSBY) and the operational creditor provided the services of issuing various types of the smart card to the beneficiaries under the RSBY scheme for the district of Bargarh, Orissa.

4. The operational creditor has stated that after providing the requisite services as required by the corporate debtor, the applicant/operational creditor used to raise their invoices against services. Copies of the invoices raised by the operational creditor are annexed with the application and marked as Annexure II-D.

5. The operational creditor has stated that the corporate debtor had never raised any dispute about the invoices raised by the operation creditor and have accepted the same without any demur and protest. It is further submitted that the corporate debtor had acknowledged the successful completion of the project by the applicant. The operational creditor raised invoices on the corporate debtor

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against the services rendered by the operation creditor as per order placed by the corporate debtor, and all such invoices were received by the corporate debtor.

6. As per liability to make payment of such invoices, the corporate debtor made payments from time to time towards part liquidation of its outstanding dues covered by such invoices. The operational creditor has requested to make payment of its outstanding dues under cover of their various letters and emails. However, the corporate debtor has avoided in making payment of the legitimate dues of the operational creditor. Copies of the emails exchanged between the parties are annexed with the application and marked as Annexure II-G.

7. The operational creditor has stated that it had raised invoices aggregating to Rs.1,12,97,408/- out of which Rs.63,95,064/- has been paid by the corporate debtor till the date of filing of the application and a sum of Rs.49,02,344/- is due and payable by the corporate debtor.

8. The operational creditor has further stated that despite repeated reminders for clearing the outstanding amount, the corporate debtor did not make payment the balance amount to the operational creditor. Therefore, the operational creditor issued statutory demand notice dated 15/6/2017 in prescribed form No.3 to the corporate debtor at its registered office and the said notice was received by the corporate debtor on 17/6/2017. The corporate debtor has further issued a second letter dated 28/7/2017 in response to the demand notice dated 15/6/2017. The operational creditor denies and disputes the allegations contained the letter dated 28/7/2017.

9. The operational creditor has further stated that both UP and Orissa projects are separate and different projects and the operational creditor reserves its right to initiate separate legal proceedings against the corporate debtor for

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recovery of its outstanding dues of UP projects from the corporate debtor. The operational creditor submits that it is due of Rs.49,02,344/- which is payable to the operational creditor along with interest on the outstanding principal amount @ 24% per annum from 31/5/2017 till the amount is paid and liquidated in full. A copy of the statement of account showing the due in tabular form is annexed with the application and marked as Annexure II-B.

10. In reply to the demand notice issued under I & B Code, 2016, the corporate debtor made a reply wherein it has been stated that the applicant/operational creditor has suppressed the agreements dated 16/9/2013 and 1/10/2013 between the parties. It has been further stated that as per para 2.6 of Part IV of the application, the applicant attempted to allege as if the agreement between the parties was entered into by exchange of emails and correspondences. Copies of the agreement dated 16/9/2013 and 1/10/2013 are annexed with the reply and collectively marked as Annexure R-3.

11. It has been further stated in the reply that the applicant has suppressed the fact that agreements dated 16/9/2013 and 1/10/2013 were entered into between the parties for issuance of Smartcards in 17 Districts of Uttar Pradesh and Bargarh District in Odisha under Rashtriya Swasthya Bima Yojana (RSBY) wherein, inter alia, scope of services to be provided by the applicant/operational creditor and remuneration payable therefor by the corporate debtor and terms of payment are mentioned in detail. The corporate debtor has denied the amount of Rs.4,51,284/- claimed as interest and the rate of interest thereof. The corporate debtor submitted that there was no agreement for payment of interest @24% per annum. The corporate debtor has further stated that the applicant concealed payments of Rs.33,00,000/- made by the respondent.

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12. The respondent has further stated that the applicant has claimed an amount of Rs.9,35,315/- on account of FKO payment @ Rs.5/- on the allegation that 1,87,063 members were enrolled. The claim of the applicant is inflated and exaggerated as the applicant has enrolled only 1,82,881 members. The respondent submits that the said FKO payment is to be reimbursed by the corporate debtor only upon receipt of payment from Insurance Company under clause 4.17.3 of the agreement dated 1/10/2013. As the corporate debtor have not received the FKO payment from Insurance Company, the operational creditor is not entitled to the said payment.

13. The respondent further submitted that the operational creditor is liable to pay to the corporate debtor Rs.1,37,27,886/- as appeared in the application at page 146.

14. From the aforesaid facts, the corporate debtor submits, that the application filed by the operation creditor is not bona fide, it has been filed with unclean hands upon suppression of materials facts by making false and misleading allegations. As such the application is liable to be dismissed.

15. By filing a rejoinder, the operational creditor submits that the reply filed by the corporate debtor is devoid of any merit and does not disclose any defence and the said affidavit in reply is based on manufactured, concocted and engineering facts and the documents prepared for instant litigation. The said counter affidavit is bogus, vague, non-speaking, frivolous and no cognizance should be taken, and the corporate debtor has suppressed many facts which are germane to the purpose of the instant case. The application filed by the operational creditor is wholly maintainable, and the claim of the applicant is

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admitted in nature, and the disputes raised are an afterthought to vitiate the claim of the operational creditor.

16. Heard arguments of Ld. Counsel for the petitioner/operational creditor and Ld. Counsel for the respondent/corporate debtor and perused the record. Petitioner/operational creditor has filed this application under Sec.9 of the I & B Code, 2016 with the allegation that the corporate debtor has failed to make payment of the invoices raised by services rendered by the operational creditor as per order placed by the corporate debtor and all such invoices were received by the corporate debtor. The operational creditor has stated that it had raised invoices aggregating to Rs.1,12,97,408/- out of which corporate debtor has paid only Rs.63,95,064/-, and a sum of Rs.49,02,344/- is due and payable by the corporate debtor.

17. Petitioner has further stated that despite repeated demand for clearing the outstanding dues, the corporate debtor did not make payment. Therefore, applicant issued demand notice dated 15/6/2017 prescribed under Adjudicating Authority Rules, 2016 which was received by the respondent on 17/6/2017 but corporate debtor failed to make payment. Therefore, the operational creditor has filed this application under Sec.9 of the I & B Code, 2016.

18. Before filing the petition, the applicant has complied with the provision of Sec.8 of the I & B Code, 2016 and has issued demand notice on the corporate debtor in Form No. III prescribed under the rules. Demand notice is Annexure I, pages 16 to 64 of the application which shows that the demand notice is in prescribed format along with all copies of invoices which has been raised against the corporate debtor. Petitioner has also filed Track Report of India Post of the Demand Notice which is annexed with the petition at page 63. On perusal of the

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Track Report, it appears that Demand Notice issued against the corporate debtor through Speed Post on 15/6/2017 was delivered on the corporate debtor on 17/6/2017.

19. As per provision of sub-clause (2) of Rule 8 of the I & B Code, 2016 corporate debtor after receiving notice under Sec.8(1) of the I & B Code, within a period of 10 days of receipt of demand notice or copy of invoices mentioned in sub-section (1) bring to the notice of operation creditor regarding existence of a dispute, if any, and record of the pendency of the suit or arbitration proceeding filed before the receipt of such notice or invoice in relation to such dispute.

20. Ms. Aditi Jhawar, daughter of late Pradeep Jhawar, has filed an affidavit as a Director of petitioner wherein it is stated that till date no notice was given by corporate debtor to the applicant company relating to any dispute existing or any suit or arbitration proceedings filed before receipt of the notice or invoice with respect to Rs.53,53,628/- in which Rs.49,02,344/- being the principal amount and Rs.4,51,284/- as interest thereof. Petitioner/ operational creditor has complied with the provision of sub-clause (3) (b) of Sec.9 of I & B Code, 2016 and filed an affidavit to the effect that there is no notice given by the corporate debtor relating to dispute of unpaid amount.

21. Petitioner/operational creditor has also filed copy of the demand notice along with Track Report of the India Post which shows that demand notice in prescribed form has been served on the corporate debtor on 17/6/2017 and it is also undisputed that within the statutory period of 10 days, corporate debtor has not filed any reply to the notice, made any payment after receiving the demand notice in compliance with sub-section (2) of Sec.8 of the I & B Code.

22. The operational creditor has also filed supplementary affidavit wherein it is stated that he has complied as per Sec.9(3)(c) of the I & B Code for the issuance of a certificate to the respective banks and financial institutions. The bank has expressed their inability to issue such certificate. Petitioner has attached a copy of the bank statement which bears the stamp of the bank along with the affidavit, and all the certificates have also been verified by Ld. Advocate of the operational creditor certified as a true copy. Petitioner has also signed on every paid of the bank statement in the capacity of the director of the company. In compliance with provision of Sec.9(3)(c) of the I & B Code, petitioner has filed an affidavit wherein it is stated that they have approached the banker for issuance of certificate for filing in court in compliance with Sec.9(3)(c) of the I & B Code but the bank refused to issue certificate. Petitioner has also filed a copy of bank statement which also contains the stamp of the bank along with the signature of bank officials. It is true that the petitioner has not filed any certificate of the bank to show that no payment of the unpaid operational debt has been made by the corporate debtor. But petitioner has filed a supplementary affidavit along with certified copy of the bank statement to show the compliance of Sec.9(3)(c) of I & B Code.

23. The corporate debtor has filed reply dated 21/9/2017 wherein it is stated that application filed by the petitioner is liable to be dismissed under Sec.9(5)(ii)(a) of the I & B Code. The said application as filed was incomplete and defective. From the letter dated 12/9/2017 of the applicant's advocate it appears that the Hon'ble Tribunal had directed the applicant to rectify the defects in the said application. The said application, in addition to other defects, was not accompanied by an affidavit under Sec.9(3)(b) of the I & B Code to the effect that

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there was no notice was given by the corporate debtor relating to a dispute over the unpaid operational debt. The said defects were sought to be rectified by the applicant only on 5/9/2017 by the affidavit affirmed on 5/9/2017. The said defects not having been rectified within seven days of receipt of the said notice. Therefore, the application is liable to be summarily rejected.

24. It is pertinent to mention that Hon'ble Supreme Court in 2017 SCC page 1208 Surendra Trading Co. vs. Juggilal Kamlatpat Jute Mills Ltd. & Ors. has held that seven days provided for removing the defects are not mandatory but discretionary in nature. Therefore, corporate debtor's objection that defects were not rectified within seven days, so petition should be dismissed does not hold good in the light of the judgment of the Hon'ble Supreme Court passed in the Surendra Trading Co. (supra).

25. Corporate debtor has further stated in its objection that it is false and misleading allegation made in the affidavit filed by Mrs. Aditi Jhawar dated 5/9/2017 by alleging that no notice was given by the corporate debtor relating to any dispute existing before receipt of the purported notice dated 15/6/2017. The said allegation is misleading on the face of the application and in this regard reference is made to email dated 7/4/2017 of the corporate debtor being part of Annexure II G to the said application at page 126. The purported claim of the operational creditor is highly disputed, and the said dispute arose before the demand notice dated 15/6/2017 in Form No.3 was issued. The said email dated 7/4/2017 was sought to be replied by the applicant after one month by email dated 6/5/2017. It is further stated that corporate debtor has never admitted the dues of the applicant.

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26. On perusal of the record it appears that demand notice under Form No.3 was served on the corporate debtor on 17/6/2017 and it is also clear that after receiving the demand notice within 10 days corporate debtor has not filed any reply nor raised any dispute to bring to the notice of the operational creditor regarding the existence of dispute or record of pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoices in relation to such dispute.

27. Corporate Debtor has emphasised the email dated 7/4/2017 which is about two months before the receipt of demand notice. The said email is on page 126 of the petition itself. On perusal of the email dated 7/4/2017 it appears that an email was sent by A. Alam on 7/4/2017 to the petitioner wherein, it is stated that

"Dear Ms Aditi

Please see the trail mail which is of serious nature. Data, as submitted by M/s Bradroy, are partially accepted by Insurance Co. as well as SNA UP, and as a result, we have to face huge losses. We have severally taken up the issues with your team earlier also, and as Bradroy was our vendor we were totally dependent, and the onus for submission of enrolment data pertains to your co only. As a responsible scsp your co cannot avoid the responsibility of handling over the proper accepted PED as we have to suffer because of your Bad services which were totally unexpected at this stage.

We have already done billing for 2.34 lac data and paid the registration charges @ Rs.30/- along with service charges which we understand not recoverable set aside the billing amount.

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Under the circumstances, you are finally requested to coordinate with the Insurance co as well as SNA and resolve the issues on immediate basis failing which we have no option left to debit the entire financial losses accrued on us to your Co.

Please treat this as MOST URGENT."

28. The above email shows that there was some correspondence between corporate debtor and one A. Alam, but it does not appear that said mail conversion was relating to the present transactions, which are about the invoices raised for the services rendered in Bargarh, Orissa. The abovementioned correspondence was regarding some services provided by the petitioner in UP. Therefore, by mail dated 7/4/2017 inference cannot be drawn that dispute was raised by the corporate debtor before issuance of demand notice regarding the service rendered by the operational creditor.

29. From the said mail it appears that the petitioner had issued a letter dated 6/5/2017 on the corporate debtor wherein petitioner has stated explicitly that

"Dear Mr Alam,

We acknowledge your e-mail dated April 7, 2017, and our apologies for the delay in replying to your email since I was travelling out of India.

Kindly respond to our e-mail dated April 4, 2017, where we sought clarification from you for proposing settling our admitted dues of about Rs.50 lacs arising in respect of Bargarh Orissa Project at Rs.25 lacs only.

Your e-mail is concerning a different project and has no bearing and linkage to the Bargarh Orissa project for which our dues have been pending for a long time. I am looking into your e-mail dated April 7, 2017, but earnestly request to clear our outstanding dues about Bargarh Orissa Project immediately."

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30. By conversion through mail dated 6/5/2017 between the parties, it appears that petitioner has stated that e-mail dated 4/4/2017 was relating to the different project and has no bearing and linkage to the Bargarh, Orissa project for which dues have been pending for a long time. Therefore, by e-mail between the parties dated 7/4/2017 and the further reply was given by the petitioner through e-mail dated 6/5/2017, it is clear that the email correspondence through was relating to the different project.

31. The corporate debtor has further stated in the reply that applicant has suppressed the agreement dated 16/9/2013 and agreement dated 1/10/2013 between the parties. Corporate debtor filed copy of the said two accord which clearly shows that accord dated 16/9/2013 was between the same parties but it was relating to the Smart Card Service Provider relating to the services in 17 districts of UP on the terms and conditions set forth in the said agreement whereas the agreement dated 1/10/2013 shows that this deal was between the same parties and it relates to the Smart Card Service Provider for providing services in one district of Orissa on the terms and conditions set forth in the agreement. It is also clear from the deal that these two contracts executed at different times are between the same parties, but relating to services of Smart Card Service Provider of various States which have no connection with each other. The terms and conditions of each of the two agreements are mentioned in the said agreement. It is also pertinent to indicate that the application under Sec.9 of the I & B Code, 2016, the operational creditor has filed copy of invoices and details of invoices are given in the Annexure II-B at page 101 which shows that outstanding invoices are numbered as 2013-14/ Orissa /001 to 012 amounting to Rs.1,12,97,408/- were raised against the corporate debtor and it

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also clear that corporate debtor has made part payment of Rs.63,95,064/- and after deducting part payment balance amount remains outstanding is Rs.49,02,344/-.

32. All these invoices relating to Orissa and relates to Smart Card Service provided in Orissa. Corporate debtor has raised objection alleging that much before receipt of the demand notice, he has raised the dispute but to prove this, the corporate debtor has filed copy of e-mail dated 7/4/2017 but on perusal of the record it appears that email correspondence dated 7/4/2017 was not relating to the present invoices which are of pertaining to the same service provided by the operational creditor in Orissa whereas the mail correspondence was referring to the same function given in the state of UP for which agreement was executed on different dates and these two contracts are entirely independent of each other.

33. No document has been shown by the corporate debtor to prove that before receiving the demand notice on 17/6/2017, the corporate debtor has raised any dispute relating to the invoices raised against service rendered in Orissa and notice of dispute was sent to the operational creditor.

34. Ld. Counsel for the corporate debtor has emphasized the following points:-

- a) The matter relates to pre-existing dispute. So, on this ground, the petition under Sec.9 of the I & B Code, 2016 is not maintainable.
- b) The operational creditor has not complied with the provision of Sec.9(3)(b) of the I & B Code, 2016 within the statutory period.
- c) The corporate debtor has not filed bank certificate in compliance with the provision of Sec.9(3)(2) of the I & B Code, 2016.

35. The main objection of the corporate debtor is relating to the existence of a dispute. Hon'ble Supreme Court has laid down the guideline to determine

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the existence of dispute as provided in Sec.8(2)(a) of the I & B Code in the case of 2017 SCC SC 1154 Mobilox Innovations Private Limited vs Kirusa Software Private Limited. In this case Hon'ble Supreme Court has held that:

"It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(2)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute indeed exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application.

Going by the aforesaid test of "existence of a dispute", it is clear that without going into the merits of the dispute, the appellant has raised a plausible contention requiring further investigation which is not a patently weak legal argument or an assertion of facts unsupported by evidence. The defence is not spurious, mere bluster, plainly frivolous or vexatious. A dispute does truly exist in fact between the parties, which may or may not ultimately succeed, and the

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Appellate Tribunal was wholly incorrect in characterising the defence as vague, got-up and motivated to evade liability.”

36. By law laid down by the Hon’ble Supreme Court, it is clear that once the operational creditor has filed an application which is otherwise complete, then adjudicating authority must reject the application if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is also clear that such notice must bring to the notice of operational creditor the existence of a dispute. The adjudicating authority is to see whether there is plausible contention which requires further investigation and that a dispute is not a patently weak legal argument or an assertion of facts unsupported by evidence. So long as a dispute truly exists, and it is not spurious, hypothetical or illusory, the adjudicating authority is to reject the application.

37. In this case it is undisputed fact that demand notice issued under Sec.8(1) of the I & B Code was received by the corporate debtor on 17/6/2017, and it is also undisputed that within 10 days of the receipt of the notice, corporate debtor has not sent any notice regarding the existence of a dispute. The corporate debtor has filed the reply wherein the corporate debtor has stated that before issuing the demand, the dispute was existing. But, on detailed scrutiny it has been found that there was two separate agreement between the operational creditor and corporate debtor – the first agreement was relating to the service rendered in Orissa and the second contract was relating to the service rendered in UP.

38. On perusal of the record, it also appears that there was a dispute relating to the service rendered in UP but for that the contract was separate, and there was no interconnection between the contract of service relating to Orissa and UP.

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As such, by an existing dispute of UP, it cannot be inferred that dispute was relating to service rendered in Orissa.

39. The present application has been filed relating to invoices which have been raised regarding the service rendered at Orissa for which contract was separate. The corporate debtor has not filed any document to show that there was any pre-existing dispute regarding service rendered in Orissa. The corporate debtor has not filed a reply to the demand notice under the statutory period prescribed under Sec.8(2) of the I & B Code. Therefore, on the basis of law laid down by Hon'ble Supreme Court in the case of Mobilex Innovations Private Limited (supra) it is clear that corporate debtor has taken the defence of existence of dispute as a frivolous ground and in fact no dispute truly exists in between the parties relating to the service rendered by the operational creditor in Orissa for which contract was separate.

40. Regarding the other objection of not compliance with the requisite formalities within the prescribed period of seven days, it is to be clarified that above objection is also not sustainable in the light of the judgment of Hon'ble Supreme Court in the case of Surendra Trading Co. vs. Juggilal Kamlapat Jute Mills Ltd. & Ors. (supra).

41. The corporate debtor has taken the plea that operational creditor has not complied with the provision of Sec.9(3)(c). It appears from the record that operational creditor has filed certified copy of the bank statement along with the affidavit wherein it is stated that to comply with the above provision he has asked the bank to issue certificate for submission in court in compliance with the provision of Sec.9(3)(c) but the bank did not supply the said certificate and only

issued certified copy of the bank statement. The operational creditor has filed a certified copy of bank statement which does not have any entry regarding payment of dues above stated to the operational creditor in its bank account. However, we can take judicial notice of that fact that in a normal case it is challenging from the bank authority to get a certificate that corporate debtor has not made payment of the unpaid operational debt. We can take judicial notice of the fact that there is no such direction to the bank from the Reserve Bank of India for issuing a certificate to the customers in compliance with the provision of Sec.9(3)(c) of the I & B Code, 2016. In the rare case where the bank officials have a personal relationship with their customer, the customer can obtain a certificate, but it is tough for a normal person to get a certificate that corporate debtor has not made payment of operational debt . So, by bank certificate, an inference can only be drawn that no unpaid operational debt has been made to the corporate debtor. It is also true that if there we insist on filing of bank certificate in compliance with Sec.9(3)(c) of bank statement, then in rarest of rare case an application filed by the operational creditor can be admitted.

42. On the basis of the documents filed by the petitioner, it is clear that operational creditor has before filing the petition issued demand notice under Sec.8(1) of the I & B Code along with the copy of the invoices and it is also evident that after receiving the demand notice corporate debtor failed to issue any notice regarding existence of dispute or to record the pendency of the suit or arbitration proceedings relating to such dispute. The operational creditor has filed an affidavit in compliance with the provision of Sec.9(3)(b). The operational creditor has also filed a certified copy of bank statement in compliance with the provision of Sec.9(3)(c). From the documents filed by the petitioner, it is clear that no

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dispute was existing regarding the outstanding dues of the invoices raised for the service rendered by the operational creditor in the state of Orissa. It is also evident that the defence taken by the corporate debtor regarding the existence of a dispute is spurious and without any basis. In fact, the said dispute was existing relating to the service rendered by the operational creditor in UP for which there was separate agreement executed on different dates, and there was no interconnection between the contract made for Orissa and the contract awarded regarding the same service of UP.

43. The operational creditor has also proposed the name of Interim Resolution Professional, Shri Chhedi Rajbhar, who is competent to work as IRP. No disciplinary proceeding is pending against him. Therefore, Shri Chhedi Rajbhar deserve to be appointed as Interim Resolution Professional. Thus, the petition for initiation of Corporate Insolvency Process under section 9 of the Insolvency & Bankruptcy Code, 2016 deserve to be admitted.

ORDER

Petition for initiation of Corporate Insolvency Process under section 9 of the Insolvency & Bankruptcy Code, 2016 is admitted.

Shri Chhedi Rajbhar, (Reg. No. IBBI/IPA-OO1/IP00129/2017-18/10271) is appointed as Interim Resolution Professional.

1. Moratorium under section 14 of Insolvency & Bankruptcy Code shall apply on the following:

(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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

(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 the 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 affect 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."

Necessary public announcement as per section 15 of the I & B Code, 2016 may be made. Let the copy of the order be sent to the Applicant/Operational Creditor as well as Corporate Debtor and I.R.P.

List the matter for F O on 15/11/2017.

Copy of order may immediately be issued to operational creditor, corporate debtor and I R P.



Jinan K.R.
Member (J)



Vijai Pratap Singh,
Member (J)

Signed on 26th October 2017