

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 849/I&BP/NCLT/MAH/2017**

Coram: B. S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)

In the matter of under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016.

Champak Steel and Engineering Co.
390/392, Ground Floor,
Shankar Mansion, Vanita Vishram Chowk,
S. V. P. Road,
Mumbai – 400 004.

... Applicant/ Operational Creditor

Aarti Infra Projects Pvt. Ltd.
Gandhi Bagh,
Tehsil Police Station Road,
Nagpur – 440 002.

... Corporate Debtor

Counsel for Applicant/Operational Creditor: Dipesh U. Siroya, Advocate.

Counsel for Corporate Debtor: None Present.

ORDER

(Heard on 15.06.2017)

Pronounced on 22.06.2017)

Per V Nallasenapathy, Member (Technical)

1. Champak Steel and Engineering Co., the Operational Creditor herein, filed this Insolvency and Bankruptcy Petition against the Corporate Debtor, Aarti Infra Projects Pvt. Ltd., claiming that a sum of Rs.5,50,244 along with interest @ 24% per annum is in default from 02.11.2016. The Operational Creditor initiated this proceeding against the Corporate Debtor under section 9 of Insolvency and Bankruptcy Code, 2016 (the Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (the Rules) seeking reliefs.

2. The Operational Creditor states that goods were supplied to the Corporate Debtor, based on Purchase Order No. AIPPL/GADNAN/14-

15/PO/135 dated 23.04.2014 and an invoice No. 96 dated 26.04.2014 was raised for a sum of Rs. 5,50,224/-. Since the amount was due for more than two years even after issue of notice dt 18/02/16 u/s 433 and 434 of Companies Act, 1956 and another notice dt 22/10/16 u/s 138 of the Negotiable Instruments Act, 1881, for there being no reply to the above notices, the Operational Creditor issued demand notice under the code on 15/02/17 calling upon to pay a sum of Rs.5,50,244/-. The demand notice further reveals that a cheque no.000265 dt 10/10/16 issued by the Corporate Debtor for the said balance due of Rs.5,50,244/- was returned with an endorsement "account closed".

3. The Corporate Debtor who has received the above demand notice on 18.02.17, replied on 01.03.17, through an advocate, denying the issue of any purchase order, receipt of invoice, receipt of goods and also stated that no cheque was issued to the Operational Creditor as claimed.

4. An employee/representative of the Corporate Debtor appeared and stated that the principal amount was already paid and when this was put to the counsel for the Operational Creditor, the counsel admitted receipt of payment but raised an issue stating that interest is yet to be paid by the Corporate Debtor.

5. It is to be noted that no demand of interest was raised in the demand notice issued under the code. The interest claim which is not even demanded cannot be subsequently added in the claim amount. As on date, the amount claimed by the Operational Creditor in the statutory notice issued under the code was already settled and nothing survives in this Petition.

6. Accordingly, this Petition is dismissed with liberty to the operational creditor to approach appropriate forum for suitable remedy if eligible under any other law in force.

7. The Registry is directed to communicate this order to the Operational Creditor and to the Corporate Debtor.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
B. S. V. PRAKASH KUMAR
Member (Judicial)