

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No. 1376/IBC/NCLT/MB/MAH/2017

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. Excellent Investigator and Security Services

..... Operational Creditor
(Petitioner/Applicant)

V.

M/s. Click Telecom Private Limited

..... Corporate Debtor
(Respondent)

Heard on : 14.12.2017

Order delivered on : 17.01.2018

Coram :

Hon'ble M.K. Shrawat, Member (J)

Hon'ble Bhaskara Pantula Mohan, Member (J)

For the Petitioner :

Ms. Rashmi Patil, Advocate i/b. Adv. Abhineet Pange – Advocate for the Petitioner/Applicant.


For the Respondent :

None Present.

Per: Bhaskara Pantula Mohan, Member (J)

ORDER

1. M/s. Excellent Investigator and Security Services (hereinafter as **Operational Creditor**) has furnished Form No. 5 under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of "Operational Creditor" on 08.11.2017 by invoking the provisions of Section 9 of the Insolvency and Bankruptcy Code (hereinafter as **Code**).
2. In the requisite Form, under the Head "Particulars of Corporate Debtor" the description of the debtor is stated as, M/s. Click Telecom Private Limited (hereinafter as **Debtor**)



having registered address at, 717, 7th Floor, Raheja Chambers, Free Press Journal, Opp. Mantralaya, Nariman Point, Mumbai – 400021.

3. Further under the Head “Particulars of Operational Debt” the total amount in default is stated as ₹ 3,00,300/-.
4. The Learned Counsel for the Operational Creditor has submitted that, the nature of the Debt is that, the Operational Creditor has provided service of Security Guards to the Debtor and the payment towards the said service is unpaid. The services have been provided during the period of 01.10.2016 to 31.03.2017.
5. It is further submitted that, the Operational Creditor has raised invoices during these period on the Debtor but Debtor has not made a payment towards any invoice.
6. It is further submitted that, the Operational Creditor has sent various reminders to the Debtor for making the payment of Outstanding Debt. But no reply has received by the Debtor.
7. Hence, consequentially on 31st July, 2017 the Operational Creditor has issued a Demand Notice claiming the outstanding amount of Debt from the Debtor.
8. It is further submitted that, there is no reply to that Demand Notice from the side of the Debtor. It is also submitted that, the Operational Creditor, time to time, has informed the dates of hearing to the Debtor and to that effect the **Affidavit of Service** is placed on record.
9. The Certificate of bank account of the Operational Creditor dated 29.08.2017 stating that, in the account of the Operational Creditor no payment has been received by the Debtor from 30.10.2016 to 24.08.2017 is also annexed herewith.
10. It is also submitted that, the non-appearance or non-communication of the Corporate Debtor has thus established that it has nothing to say in defence in respect of the impugned outstanding amount. Hence, this Petition/Application U/s. 9 of the Code may be admitted.

FINDINGS :

11. Considering the above facts, it is established by the Operational Creditor that the nature of Debt is an “Operational Debt” as defined under section 5 (21) of the Definitions under The Code. It has also been established that there is a “Default” as defined under section 3 (12) of The Code on the part of the Debtor. On the basis of the evidences on



record the Operational Creditor has established that the services have been provided by the Operational Creditor and valid invoices were raised to claim the amount but there is non-payment of Debt on the part of the Corporate Debtor.

12. We have perused the notice sent under Section 8 (2) of the Insolvency and Bankruptcy Code, 2016 and if the Respondent wanted to place on record evidence of 'Dispute' then he could have raised the objection within 10 days as prescribed under section 8 (2) of The Code which had also lapsed now. Hence, admittedly there is no 'Dispute' in respect of the outstanding Debt.
13. Further we have also perused the Affidavit of Service which is filed by the Operational Creditor dated 11.12.2017 and we have noticed that, the notice by the Operational Creditor intimating date of hearing have been received by the Debtor through "Hand Delivery". But inspite of this fact the Debtor choosed to remain absent for hearing.
14. Further we have also perused our record and it is noticed that from the side of Debtor no representation has been done so far.
15. As a consequence, after the expiry of the period as prescribed and keeping admitted facts in mind that the Operational Creditor had not received the outstanding Debt from the Debtor and that the formalities as prescribed under The Code have been completed by the Petitioner we are of the conscientious view that this Petition deserves '**Admission**' specially wherein the Debtor is not representing his case.
16. The Operational Creditor has not proposed the name of Interim Resolution Professional hence, vide a power conferred through a letter bearing No. 25/2/2018-NCLT we hereby appoint Mr. Venkata Suryanarayanarao Nagulpati, IBBI/IPA-001/IP-P00534/2017-2018/10959, having mail id **nagulpati12.rao@gmail.com**, 09323031491 as Interim Resolution Professional.
17. Having admitted the Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of appointment of IRP shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.

B. Prakash:

18. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
19. The appointed IRP shall also comply the other provisions of the Code including **Section 15** and **Section 18** of The Code. Further the IRP is hereby directed to inform the progress of the Resolution Plan to this Bench and submit a compliance report within 30 days of the appointment. A liberty is granted to intimate even at an early date, if need be.
20. The Petition is hereby "**Admitted**". The commencement of the Corporate Insolvency Resolution Process shall be effective from the order.

Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Sd/-

M. K. SHRAWAT
MEMBER (JUDICIAL)

Dated : 17th January, 2018

Avinash