

**In the National Company Law Tribunal
Single Bench, Chennai**

CP/536/(IB)/CB/2017

Under Section 9 of the IBC, 2016

In the matter of

Autocap India Private Limited
V/s
Infonet Asia Private Limited

Order delivered on: 02.08.2017

For the Petitioner/OC: Mr. Monish K. Vig, Advocate

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

ORDER

1. Under Consideration is a Company Petition filed by Autocap India Private Limited (in short, '**Petitioner/Operational Creditor**') against Infonet Asia Private Limited (in short, '**Respondent/Corporate Debtor**') under section 9 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.



3. Mr. Monish K. Vig, the learned counsel appearing on behalf of the petitioner/OC submitted that the Respondent/CD approached the petitioner and negotiated for supply of 'Facility Security Solution Products' and the terms of the said supply were also finalised. Accordingly, the petitioner supplied the said products from time to time under various invoices on running account. It is also submitted that the respondent/CD paid part payment, however, the respondent failed to pay the outstanding amount in relation to Invoice No. SS106811 dated 27.02.2012 of Rs. 5,65,891/- alongwith the interest @ 24% per annum as per agreed terms of contract. It is submitted that respondent failed to furnish the **C Form** as agreed, hence the CD is also liable to pay the differential tax amount together with interest and penalty as prescribed under Central Sales Tax Act. Therefore, as on the date of filing petition, the Petitioner/OC is entitled to recover a sum of Rs. 30,99,237/- from the respondent.
4. It is also submitted that the respondent received and acknowledged the said material without raising any disputes with regard to rates, quality and quantity of the products.
5. It is further submitted that the petitioner, after making several requests for settling the dues with the respondent and having

waited for a long period of time for his legitimate dues, sent a Demand Notice dated 01.04.2017 as per the provisions under section 8 of the IB Code 2016 r/w Rule 5 of the IB Rules 2016 calling upon the respondent to make the payment of the outstanding due of Rs. 30,99,237/- and thus claimed to be an Operational Creditor under the provisions of the IB Code 2016 and prayed to initiate Corporate Insolvency Resolution Process against the Respondent/CD.

6. It is pertinent to mention herein that the respondent company neither gave any reply to the Demand notice dated 01.04.2017 sent by the Operational Creditor nor caused appearance before this adjudicating authority even after receiving another notice for appearance. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016.
7. After hearing submissions of the counsel for the petitioner and having perused the record, I am inclined to admit the instant application.
8. Therefore, the instant petition is admitted and I order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

9. I declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, namely :

- (a) 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;*
- (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 Securitisation 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 the possession of the corporate debtor.*

10. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1)



of Section 14 shall not apply to such transactions, as notified by the Central Government.

11. It is pertinent to mention herein that the Petitioner has not proposed the name of an IRP and prayed before the Adjudicating Authority to make a reference to the Insolvency and Bankruptcy Board of India (IBBI) for recommending the name of an IRP. Therefore, the Registry is directed to make a reference to IBBI for recommending the name of an IRP.

12. The Registry is also directed to communicate this Order to the Operational Creditor and the Corporate Debtor.



K. ANANTHA PADMANABHA SWAMY
Member (J)