

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/559/(IB)/CB/2017

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

In the matter of

M/s. Jigsaw Solutions

Vs.

M/s. Inasra Technologies Private Limited

Order delivered on 15th September, 2017

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN MEMBER (TECHNICAL)

For Operational Creditor(s): Sr. Counsel Mr. P.H. Arvindh Pandian
For Corporate Debtor(s) : Counsel Mr. P. V. Balasubramaniam

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is an Application that has been filed on 03.07.2017 by the Operational Creditor

under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code 2016, for short) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016 (the Rules, for short), against Inasra Technologies Private Limited, on account of the default made in making payment of the outstanding debt to the tune of Rs.1,69,36,735/- along with interest @ 18% p.a. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, to declare the moratorium and appoint an Interim Resolution Professional (IRP).

2. The Operational Creditor has submitted that the Corporate Debtor engaged the Operational Creditor for various advertisement campaigns at different geographical locations through baggage tags, billboards and bus shelters (also referred to as "Services"). Therefore, in accordance with the commercial understanding agreed upon between the Corporate Debtor and the Operational Creditor, the services were provided based on the purchase orders issued and

invoices raised and the Corporate Debtor was bound to make a total payment of Rs.1,69,36,735/- along with contractual rate of interest i.e. @ 18% p.a. But, the same has not been paid in spite of the demand notice given on 08.05.2017. The copy of the demand notice along with proof of delivery, purchase orders and invoices are placed at pages 18 to 58 of the typed set filed with the Application.

3. A reply was given to the demand notice by the Corporate Debtor on 15.05.2017, the copy of which is placed in the typed set at pages 59 to 67 of the Application wherein the Corporate Debtor has in the beginning denied the claim. However, in the subsequent paragraphs various allegations have been levelled against the Operational Creditor including cheating, fraud and forgery of documents for making bogus claim. It has categorically been stated that there is no legitimate dues, much less, unpaid operational debt as stated in the notice of demand. A reference has also been made with regard to the

registration of a criminal case against the Corporate Debtor by the Operational Creditor under Crime No.71/2017 on the file of the Inspector of Police, CCB-EDF-2, Team-4, Vepery, Chennai and the Corporate Debtor deposited an amount to the tune of Rs.65 Lakhs for making compliance with the order of bail granted to the Corporate Debtor. In view of it, the Corporate Debtor submitted that the issue of the payment of outstanding debt as claimed by the Operational Creditor is involved in the criminal case pending before the trial court. Therefore, the Application of the Operational Creditor cannot be considered till the issue is decided by the trial court. On this base the Corporate Debtor pleaded that there exists a 'dispute' between the parties. In this respect, we may refer to the ruling given by the Hon'ble NCLAT in ***MCL Global Steel Private Limited Vs. Essar Projects India Ltd*** wherein, under para 25 of the Order, it has been laid down, that disputes in a pending suit or arbitration proceedings are such disputes which satisfy the test of sub-section (6) of

Section 5 of the I&B code, 2016 and that such disputes are within the ambit of the expression, 'disputes, if any'. The record of suit or arbitration proceedings is required to be demonstrated being pending prior to the notice of demand under sub-section 8 of the I&B Code, 2016. In this case, the Corporate Debtor has submitted that a criminal case is pending between the parties on the issue of the payment of outstanding debt. But, he failed to point out any dispute which could come within the ambit of the 'dispute, 'if any' or could satisfy the test of sub-section (6) of Section 5 of the I&B Code, 2016. The pendency of the criminal case does not fall within the purview of the term 'dispute'. Therefore, the plea taken by the Corporate Debtor is devoid of merits and stands rejected.

4. We have heard the Sr. Counsel for the Operational Creditor, Counsel for the Corporate Debtor and perused the Application and the reply filed by the Corporate Debtor including the Affidavit and Bank

certificate filed to make compliance with the Section 9 (3) (b) and (c) of the I&B Code, 2016.

5. The Operational Creditor has also placed on record the audit confirmation of the outstanding debt made on 12th September, 2016 in the typed set at page 280 filed with the Application.

6. From the facts and circumstances of the case and the submissions made by the Counsels, it is established that the Corporate Debtor has committed the default in making the payment of the outstanding debt to the Corporate Debtor along with interest as claimed by the Operational Creditor.

7. The Operational Creditor has fulfilled all the requirements of law and has also proposed the name of IRP after obtaining the written consent in Form-2. We are satisfied that Corporate Debtor committed default in making payment of the outstanding debt. Therefore, CP/559/(IB)/CB/2017 is admitted and we order the

commencement of the Corporate Insolvency Resolution Process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

8. We appoint Mr. Karthigeyan Srinivasan, as IRP as proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

9. We 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. We 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. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is disposed of.

12. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

13. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. The address details of the IRP are as follows: -

Mr. Karthigeyan Srinivasan
Insolvency Resolution Professional
IP Registration No. IBBI/IPA-001/IP-P00402/2017-
2018/10720,
10 B1, Prathosh, Karthikeyapuram First Cross Street,
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S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)