

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/565/(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

Mr. Murali Sundaram

Vs.

M/s. Air Carnival Private Limited

Order delivered on 2nd of November, 2017

CORAM :

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

For Operational Creditor(s) : Ms. Jayanthi K. Shah, Counsel
For Corporate Debtor (s) : remained *ex parte*

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP/565/(IB)/CB/2017 that
has been filed by the Operational Creditor under
Section 9 of the Insolvency & Bankruptcy Code 2016

(in short, 'I&B Code, 2016') r/w the Insolvency & Bankruptcy (Application to Adjudicating Authority Rules, 2016). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. Heard the Counsel for the Operational Creditor and perused the record. As seen from the Order dated 15.09.2017, the Corporate Debtor was proceeded *ex parte*.

3. In the Petition, the Operational Creditor submitted that he was appointed as Director Operation on 12.12.2015 and rendered service with the Corporate Debtor for monthly remuneration. However, remuneration was not paid by the Corporate Debtor to the Operational Creditor from August, 2016 amounting to Rs.30,00,000/-. It is further averred that a sum of

Rs.11,46,628/- incurred as travel expenses for official purpose was not reimbursed by the Operational Creditor. The Counsel for the Operational Creditor submitted that the total amounts due in respect of remuneration and travel expenses as on April, 2017, is Rs.48,41,818/- plus interest due.

4. The Operational Creditor has sent notice under Section 8 of the I&B Code, 2016 on 21.04.2017 claiming the outstanding debt i.e. Rs.48,41,818/-, which is placed at pages 44 to 48 of the typed set filed with the Petition. But, the Corporate Debtor has not given any reply to the said notice.

5. The Operational Creditor has complied with the requirements under Section 9 (3) (b) and (c) of the I&B Code, 2016 by filing an Affidavit and Bank certificate stating therein that the Corporate Debtor has not raised any dispute in relation to the outstanding debt claimed by the Operational Creditor and nothing has

been paid in the accounts of the Operational Creditor as part of the outstanding debt.

6. 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/565/(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.

7. We appoint Ms. Kavitha Surana, as IRP, who has been proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and her name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. She 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 by the creditors in the manner as prescribed.

8. 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.

9. 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.

10. 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.

11. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP so that she 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.

12. 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: -

Ms. Kavita Surana
Regn No: (IBBI/IPA-002/IP-N00166/2017-18/10435)
S.U.S. Bhawan,
No.2, Vimala Street,
Ayyavoo Colony, Aminjikarai,
Chennai – 600 029,
Tamilnadu.
Email: kavitha@mksurana.com
Mobile No: 9940577777.



S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)