

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

CP/610/(IB)/CB/2017

Under Section 9 of the IB Code, 2016

In the matter of

Sanjiv Goyal, Partner
Rani Sati Impex

V/s

Antony Projects Private Limited

Order delivered on: 15.11.2017

For the Petitioner/OC: Shri P.R Balasubramanian, Advocate

For the Respondent/CD: Shri R. Rangarajan, Advocate

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

ORDER

1. Under Consideration is a Company Petition filed by Sanjiv Goyal, Partner, Rani Sati Impex (in short, **‘Petitioner/Operational Creditor’**) against Antony Projects 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. Shri P.R Balasubramanian., the learned counsel appearing on behalf of the petitioner/OC submitted that the petitioner is engaged in the Business of Steel Trading and other constructions materials. In ordinary course of business, the Respondent/CD approached the petitioner and expressed its requirements for Steel bar and pipes etc. Accordingly, the petitioner supplied the said products from time to time under various invoices. In respect of the present issue, the respondent had placed various orders with petitioner between November, 2013 and January, 2014 which the petitioner processed and delivered to the respondent and the respondent received and given a latter of undertaking to make payment as on 12.04.2014. Therefore, deemed that the respondent has acknowledge to the debt does not refer to any dispute relating to or in connection with unpaid operational debt. It is also submitted that the Invoices were due and payable within 30 days from the date of each invoice. However, the respondent failed to make payments within the due date. Therefore, as on the date of filing petition, the Petitioner/OC is entitled to recover a sum of Rs. 30,45,815/- together with the interest @ 2% per month from the respondent.

4. 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 11.08.2017 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. 30,45,815/- together with the interest @ 2% per month 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.
5. At this juncture it is pertinent to mention that originally this petitioner has filed CP under section 433(e) & (f) before the Hon'ble High Court of Madras and the same was transferred to this Adjudicating Authority. As per proviso to Rule 5 of the Companies (Transfer of Pending Proceedings) Amendment Rules, 2017. The said CP was abated for non-compliances of statutory requirements as per MCA notification no. GSR 732(E) dated 29.06.2017. Later on as per rules this petition is filed and numbered as CP/610/(IB)/CB/2017. In this process the petitioner has sent notice to Respondent/CD for his appearance and for making submissions, the said notice was

received by respondent/CD and in proof of it, the petitioner filed acknowledgment and also filed affidavit of Service. This Respondent/CD has appeared only on 13 day after filing of this CP represented by on advocate Shri R. Rangarajan who filed vakalat. In spite of taking much time but the respondent failed to place any defence by way of filing any counter submission nor filed any documentary proof showing any existence of dispute for rejecting the claim made by the petitioner.

6. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016.
7. Heard both sides, after hearing submissions of the counsel for the petitioner and respondent and having perused the record, this Adjudicating authority is satisfied that the petitioner could make out his case by establishing that this Corporate Debtor has defaulted the payment dues on various occasions to this petitioner/OC. In the circumstances, 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)

TJS