

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

**CP/644/(IB)/CB/2017**

Under Section 9 of the IBC, 2016

**In the matter of**

**Sai Marketing  
(A Partnership Firm)**

**V/s**

**M/s. Inland Facilities Management Private Limited**

Order delivered on: 05.12.2017

Coram:

**K. Anantha Padmanabha Swamy, Member (Judicial)  
S. Vijayaraghavan, Member (Technical)**

For the Petitioner/OC: Shri. Aparajitha Vishwanath, Advocate

**ORDER**

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

1. Under Consideration is a Company Petition filed by M/s. Sai Marketing (in short, '**Petitioner/Operational Creditor**') against M/s. Inland Facilities Management 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. The Petitioner/OC is a Partnership Firm, having its registered office at Plot No. B7, IDA Uppal, Hyderabad-500039 Telangana State and carrying on business in marketing in the name and style of M/s. Sai Marketing whereas the Respondent/CD is a Private Limited Company incorporated under the provisions of the Companies Act 1956 and having its registered office at No. 18A, Veteran Lines, 2<sup>nd</sup> Cross Street, Pallavaram, Chennai- 600043. The main object of Respondent Company is to acquire and run the business of “Karthiga Facility Management Services”, a registered partnership firm and to carry on the business of being the signal point contact between owners, occupants, contractors and service providers of the properties and responsible for operation and maintenance of all utilities etc.
4. Shri. Aparajitha Vishwanath, the learned counsel appearing on behalf of the petitioners/OC submitted that the Respondent had approached the petitioner and expressed its requirements for supply of Kimberly Clark Professional C-Fold and T-Rolls (hereafter referred to as “**Material**”) to all sites which was being managed by the Respondent Company at Hyderabad.

Accordingly, the petitioner based on oral undertaking arrived between both the parties, the petitioner agreed to supply the said material.

5. It is further submitted that the petitioner has received the purchase orders by e-mail from the Respondent Company for supply of the said material at the sites and same has been supplied and pursuant to the satisfactory supply of the material and also the raised invoices specifically provides the payments due shall be within 15 days from date of invoice but no payment was made as per the agreed terms and conditions by the Corporate Debtor. It is further submitted that the petitioner was supplied the material between April to July at the sites and a total amount of Rs. 40,25,352.50/- is due from the Corporate Debtor. Further it is submitted that the petitioner had sent e-mails between May to till date and had orally on several occasions requested the respondent company to release the payment but no reply was received and then the petitioner personally visited the respondent company and had discussions with the vice-president of the Respondent Company and they promised that the payment of the total due amount will be made soon. Even after the assurances and the representations of the respondent company, no payment of the total due amount was made. It is further stated that the

petitioner/OC had incurred an additional Expense of Rs. 64,000/- for personal visits to the Respondent Company office several times.

6. It is also submitted that the respondent even thereafter defaulted in payments and hence the petitioner issued a statutory legal notice dated 05.01.2017 upon the respondent under section 434 of the Companies Act 1956 (correspondingly to section 271(2)(a) of the companies Act, 2013) calling for repayment of the total due amount of a sum Rs. 40,25,352.50/- along with interest @ 24% p.a from the date of invoices along with Rs. 64,000/- with interest @ 24% p.a from the date of notice. It is further submitted that the corporate debtor has made part payment of Rs. 1,00,000/- to petitioners bank account. It is also submitted that the corporate debtor has confirmed and has admitted regarding the total amount due. Thereafter, no further payment has been made by the respondent company. In the course of the business the petitioner has maintained a running account for the respondent.
7. The learned counsel finally submitted that when the Corporate Debtor was unable to pay its total due amount, despite several reminders and e-mails, the petitioner, having been left with no other option but to approach this Adjudicating Authority



claiming the payment of Rs. 40,25,325.50/- along with interest @ 24% p.a from the date of invoices along with Rs. 64,000/- with interest @ 24% p.a from the date of notice and claimed to be an Operational Creditor under the provisions of the IB Code 2016 and prayed for initiation of Corporate Insolvency Resolution Process against the Respondent/CD.

8. Before proceeding with the matter, it is necessary to mention herein that a final chance was given to Respondent for appearance before this Adjudicating Authority but they failed to appear on 05.12.2017. The Respondent neither gave a reply to the Demand Notice dated 27.03.2017 and 08.05.2017 nor filed any counter nor caused appearance before this Adjudicating Authority in spite of several notices. The petitioner has also placed on record proof of sending notices and its deliveries and also filed an affidavit and bank statement under section 9(3)(b) and 9(3)(c) of I & B Code. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process.
9. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating authority is satisfied that the petitioner has clearly made out his case by establishing that the Corporate Debtor has defaulted on paying

the dues on various invoices submitted by the petitioner. Also, the petitioner has proved by placing overwhelming evidence viz. Invoices, Demand Notice, financial transactions and Bank statements that default has occurred for which the Corporate Debtor was responsible to pay. We are of the opinion that the petitioner has established clearly that the amount in default committed by the corporate debtor is genuine and is supported by the documentary evidence placed before this Adjudicating authority. In the circumstances, having satisfied with the submissions put forth by the learned counsel for the petitioner, we hereby admit the instant petition.

10. Therefore, the instant petition is admitted and we 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.

11. We appoint Ms. A. Satyadevi as Interim Resolution Professional (IRP) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and her name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/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 in the manner as prescribed.

12. 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. 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.*

13. 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.

14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed 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 admitted.


15. The Petitioner/OC as well as the Registry is 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.

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

17. The address details of the IRP are as follows: -

**Ms. A.Satyadevi**  
**Regn. No: (IBBI/IPA-002/IP-N00071/2017-2018/10205)**  
**No. 23, Lake Area,**  
**3<sup>rd</sup> Cross Street, Rear Entrance,**  
**Opp. to Corporation Zonal office,**  
**Nugambakkam, Chennai-600034**  
**E-Mail: satyadevifcs@gmail.com**  
**Mobile No: 9444373373**

  
**(S. Vijayaraghavan)**  
**Member (Technical)**

  
**(K. Anantha Padmanabha Swamy)**  
**Member (Judicial)**