

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

CP/626/(IB)/CB/2017

Under Section 9 of the IB Code, 2016

In the matter of

M/s. C. H Robinson Worldwide Freight India Private Limited

V/s

M/s. Anax Industries Private limited

Order delivered on: 06.12.2017

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioner/OC: Shri K.M Anand, Advocate

ORDER

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

1. Under Consideration is a Company Petition filed by M/s. C. H Robinson Worldwide Freight India Private Limited (in short, '**Petitioner/Operational Creditor**') against M/s. Anax Industries 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**').

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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 Limited Company incorporated under the Companies Act, 1956, having its registered office at SBL House, No.54/28, First Floor, Montieth Road, Egmore, Chennai-600008. The Applicant/OC are in the business of freight forwarding and are logistics service providers. Whereas the Respondent Company, is a private limited Company incorporated under the Companies Act, 1956, having its registered office at Flat No. F, 2ND Floor, Black No. G, Tranquil Acres, Phase II, MrmD Road, Kovilambakkam, Chennai-600117.
4. The learned counsel appearing on behalf of the Petitioner/OC submitted that the Respondent/CD approached the petitioner and expressed its requirements for the shipment of their consignments from ports in India to ports outside India during the year, 2016. Accordingly, the petitioner performed the services and incurred expenditure in relation to the freight and other related charges of such shipments. The petitioner has raised various invoices from 06.01.2016 to 20.07.2016 which have been specified in the petition. The Corporate debtor has

made part payment of those invoices amount. It is also submitted that the corporate debtor has confirmed and has admitted regarding the outstanding balance of Rs. 16,32,766/- through his letter dated 31.07.2016. In the course of the business the petitioner has maintained a running account for the respondent.

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 20.06.2017 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 dues of Rs. 15,50,343/- along with interest @ 24% for the period 05.02.2016 to 20.07.2016 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.
6. 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 20.06.2017 nor filed any counter

or 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. 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.

7. 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.



8. 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

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.

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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.


(S. Vijayaraghavan)
Member (Technical)


(K. Anantha Padmanabha Swamy)
Member (Judicial)

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