

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

CP/662/(IB)/CB/2017

Under Section 9 rule 6 of the IBC, 2016

In the matter of

M/s. Handiman Services Limited ...Operational Creditor
(CIN: U45201KA1998PLC023415)

V/s

M/s. Dal Marketing Solutions Limited ...Corporate Debtor
(CIN: U52190TN2013PLC092247)

Order delivered on: 29.12.2017

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioners/OC: *Smt. T. Jayalakshmi, Advocate*

For Paul & Paul and

J Hudson Samuel & Partners

For the Respondent/CD: *Ex-Parte*

ORDER

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

1. Under Consideration is a Company Petition filed by M/s. Handiman Services Limited (in short, '**Petitioner/Operational Creditor**') against M/s. Dal Marketing Solutions 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

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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 Limited Company incorporated under the Companies Act, 1956, having its registered office is situated at F-4, SG, Vaibogam Apartments, No. 33/77, South Sivan Koil Street, Vadapalani, Chennai-600026 and engaged the business to provide services to occupants of the apartments of building whether residential or commercial in the maintenance of plumbing, Electrical and Fire Ex-tinguishing Systems etc. Whereas the respondent company, is a private limited company incorporated under the Companies Act, 2013, having its registered office is situated at No. 20/1, 1st Floor, 2nd main Road, CIT Nagar, Chennai-600035.
4. The learned counsel appearing on behalf of the Petitioner/OC submitted that the Respondent/CD approached the petitioner and expressed its requirements for Security Services and accordingly, the petitioner provided the said Security Services to the Corporate Debtor as per the agreement dated 01.09.2016. It is further submitted that the service were served on Credit basis

against specific invoice, bill etc. given the nature of the business and as a result the petitioner has always maintained a running account for the respondent.

5. It is further submitted that the Respondent has not made any payments towards the subject debt Invoices dating from 30.11.2016 to 31.10.2016 and with a view to maintain a good relationship with the respondent, various reminders were given by the petitioner, but to their dismay, nothing fruitful emerged.
6. 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 01.07.2017 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. 33,38,699/- inclusive of interest at 24% p.a and 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.
7. Before proceeding with the matter, it is necessary to mention herein that the Respondent was set ex-parte vide order dated 13.12.2017 due to non-appearance on several occasions. The Respondent neither gave a reply to the Demand Notice dated

01.07.2017 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.

8. 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 the case by establishing that the Corporate Debtor has defaulted in payment of the dues on various occasion to the petitioner. Also, the petitioner has proved by placing overwhelming evidence viz. Invoices, Demand Notice, financial transactions and Bank statements that default has occurred 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.

9. 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.

10. We appoint Shri A. Mohan Kumar as Interim Resolution Professional (IRP) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/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.

11. 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.*

12. 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.



13. 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.

14. 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.

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

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

Shri. A. Mohan Kumar
Regn No. IBBI/IPA-002/IP-N00377/2017-2018/11120
31B Enfield Avenue II Street,
Madipakkam, Chennai-600091
E-mail: needamohan@gmail.com



(S. Vijayaraghavan)
Member (Technical)



(K. Anantha Padmanabha Swamy)
Member (Judicial)

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