

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.129/9/HDB/2017
U/s 9 of the IBC, 2016 and Rule 6 of I&B
(Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s.Spartan Engineering Industries Pvt. Ltd.
Regd. Office at Spartan House,
Level 1, 111, New Tejpal Industrial Estate,
Andheri Kurla Road, Sakinaka,
MUMBAI – 400 072.

Rep. by its Authorised Signatory
Mr. Mohan Togiti, Sr. Manager.

....Petitioner /Operational Creditor

Versus

M/s.Ramky Infrastructure Limited,
Regd. Off at Ramky Grandiose,
15th Floor, sy.No.136/2&4,
Gachibowli, Hyderabad-500 032.

Telangana State, Rep. by its
Managing Director Mr.Y.Ratnakara Nagaraja

...Respondent / Corporate Debtor

Date of Order : 04.10.2017



CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Counsels Present:

For the Petitioner

Shri M.Anil Kumar

For the Respondent

Shri Avinash Desai
Shri Satya Siva Darshan
Shri Nikhil Khadkikar

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. M/s. Spartan Engineering Industries Private Limited, Operational Creditor is a Private Limited Company, incorporated under the Indian Companies Act, 1956 and the main objects of the

Operational Creditor is inter alia to carry on the business of manufacturers, importers, exporters, buyers, sellers, dealers, stockiest and distributors of engineering dyes and all type of machinery, plant fabrication, erection, servicing, designing, mechanical equipment, tools, accessories, instruments, gauge operators, lathes, shapers, plainer, grinders, die-casting machines and general to handle engineering business of all type of India and or abroad.

- The Operational Creditor has filed the present application under Section 9 (1) of the Insolvency and Bankruptcy Code, 2016 as the Corporate Debtor is indebted to Operational Creditor for the principal amount of Rs.9,09,788/- along with accrued interest upto date amounting to Rs.9,58,051/- aggregating to Rs.18,67,839/-.

Brief facts of the case are as follows:-

- The Operational Creditor has supplied and delivered certain machinery, various parts of various descriptions, apart from transport thereof and raised the Invoices on the Corporate Debtor, totaling to Rs.12,47,689/- as mentioned below:-

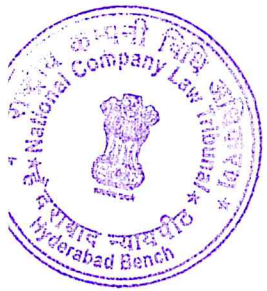
Invoice No.	Date	Amount (in Rs.)
EX0405	29-09-2012	6,09,082-00
EX0497	05-11-2012	6,07,082-00
TS0119	30-11-2012	25,516-00
1512652912	20-11-2013	3,200-00
41450043	31-12-2013	2,809-00
Total		12,47,689-00

- Corporate Debtor has agreed to make the payments within 30 days from the date of the Invoices and further agreed to pay interest @ 24% on the overdue amount. Consequently, the Corporate Debtor made part payment from time to time to the tune of Rs.3,50,000/- i.e. Rs.2,00,000/- on 13-01-2014 and Rs.1,50,000/- on 05-05-2014.



5. The Operational Creditor sent repeated reminders through personal visits, e-mails and telephonic calls as mentioned below:

- a. Final reminder by issue of Legal Notice on 10-12-2014 to release due amount of Rs.8,66,164/- payable within 7 days after receipt of this notice.
- b. Legal Notice sent on 27-03-2015 by Shri Rajesh D Randive, Advocate, for the Operational Creditor through RPAD to the Corporate Debtor for non-payment of outstanding amount of Rs.9,09,021/- along with accrued interest amounting to Rs.2,92,262/-, aggregating to Rs.12,02,183/- (Rs.9,09,021/- with interest of 24% p.a. as agreed from 31-03-2012 to 12-02-2014) directing to repay within 21 days from the date of receipt of the Legal Notice, duly treating the said notice as a Statutory Notice under Section 433 and 434 of Companies Act, 1956.
- c. Another Legal Notice was sent on 29-05-2015 by the Operational Creditor through RPAD to the Corporate Debtor for non-payment of outstanding amount and directing to repay the entire outstanding amount within 7 days otherwise, Operational Creditor is ready to file a case / suit before appropriate Court against you.
- d. Another Legal Notice was sent on 23-11-2015 by the Operational Creditor to make the payments under six invoices in the aggregate sum of Rs.12,31,370/- (Rs.8,97,822.50 as principle amount and accrued interest of Rs.3,33,547.50) within 21 days from the date of receipt of the Legal Notice.
- e. On 10-08-2016, Email sent for balance confirmation as on 31-03-2016.
- f. On 14-03-2017, Demand Notice/Invoice for demanding payment of principal amount of Rs.8,97,822/- along with interest amount of Rs.9,39,506/- aggregating to Rs.18,49,294/- in respect of unpaid operational debt due from Corporate Debtor



- g. On 10-04-2017, another Demand Notice/Invoice for demanding payment of principal amount of Rs.9,09,788/- along with interest amount of Rs.9,58,051/- aggregating to Rs.18,67,839/- in respect of unpaid operational debt due from Corporate Debtor (Form No.3 & 4 under IBC, 2016). The Demand Notice was also sent through E-mail to the Operational Debtor.
6. The said Demand Notice dated 14-03-2017 & 10-04-2017 was received by the Corporate Debtor on 18-03-2017 & 18-04-2017 respectively.
7. Shri Avinash Desai, Advocate for the Corporate Debtor replied to the notice dated 23-11-2015, vide reply dated 11-01-2016 denying all the contentions of the dues outstanding.
8. The case was listed for the first time for admission on 01-08-2017 before the Adjudicating Authority and the case was subsequently listed on 03-08-2017 and 04-08-2017. Both the Counsels/ Parties filed a Joint Memo of Settlement on 07-08-2017 and sought permission to withdraw the C.P.(IB).No.129/9/ HDB/2017 as per the terms and conditions laid down in Joint Memo of Settlement, the details are as follows:-
- It is respectfully submitted that both the Operational Creditor and Corporate Debtor have agreed that the Corporate Debtor, as full and final settlement of claim between the parties, will pay an amount of Rs.4,09,021/- by way of Demand Draft / RTGS on 09-08-2017, out of the full claim of Rs.9,09,021/- to the Operational Creditor and pay the balance amount i.e. Rs.5,00,000/- by way of Demand Draft /RTGS within one month from the date of the first payment i.e. 09-09-2017.
 - The parties have mutually agreed that the Operational Creditor will forthwith withdraw the application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 before the Hon'ble National Company Law Tribunal, Hyderabad bearing C.P.(IB).No.129/9/HDB/2017 and will not raise further claims in related to the



- c. In the event of failure of the Corporate Debtor to make the payments as agreed above, the Operational Creditor is entitled to file application for contempt.
- d. In view of the foregoing settlement reached between the parties, this Hon'ble Tribunal may permit the Operational Creditor to withdraw the above Company Petition and pass such other order or orders as this Hon'ble Tribunal may deem fit and circumstances of the case.

9. In the above facts and circumstances, Joint Memo of Settlement filed by both the parties to settle the dispute in question and sought permission to withdraw the above Company Petition (IB) No.129/ 9/ HDB/2017, in view of the settlement reached between the parties, the C.P.(IB).No.129/9/HDB/2017 is disposed of as withdrawn as prayed for with a direction to strictly adhere to the Joint Memo of Settlement dated 07-08-2017.

10. No order as to costs.



Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

प्रमाणित प्रति

CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER (C.P.(IB) No. 129/9/HDB/2017

निर्णय का तारीख
DATE OF JUDGEMENT. 4.10.2017

एडि तैयार किया गया तारीख
MADE READY ON 4.10.2017

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench