

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP (IB) NO. 3533 OF 2018

**APPLICATION BY OPERATIONAL CREDITOR TO INITIATE
CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER
THE INSOLVENCY AND BANKRUPTCY CODE, 2016.**

*(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read
with Rule 6 of the Insolvency and Bankruptcy (Application to
adjudicating Authority) Rules, 2016)*

In the matter of

**Praxix Corporate Services Private
Limited**

A-209, Kailash Business Park, Veer
Sarvarkar Marg, Vikhroli West, Mumbai-
400079

.... Operational Creditor

Versus

Powai Cubicles Private Limited

Office No. 46-47, 6th floor, Rajgir
Chambers, 12/14, Shahid Bhagat Singh
Road, Opp. Old Custom House, Fort,
Mumbai- 400001

.... Corporate Debtor

Order delivered on: 26.02.2021

Coram: Hon'ble H.V. Subba Rao, Member (Judicial)

Hon'ble Shyam Babu Gautam, Member (Technical)

Appearance:

For the Petitioner: Adv. Dinesh Rane

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. The above company petition is filed by M/s Praxis Corporate Services Private Limited hereinafter called as 'Operational Creditor' against M/s Powai Cubicles Private limited hereinafter called as Corporate Debtor for initiation of CIRP Process for non-clearance of

professional dues of the petitioner in a sum of Rs.14,07,150/- (Rupees Fourteen Lakhs Seven Thousand One Hundred and Fifty Only). The Respondent/Corporate Debtor filed reply raising various contentions/issues opposing admission of the above company petition.

2. In fact, the above company petition was dismissed by this bench vide its order dated 18.02.2018 on the ground that there is a preexisting dispute between the parties. The petitioner/Operational Creditor preferred an appeal against the above order passed by this Tribunal before the NCLAT in Company Appeal No. 456/2019. The Hon'ble NCLAT after hearing both parties and after observing that this Tribunal has failed to notice certain factual aspects set aside the order of this Tribunal dated 18.02.2018 and remitted back the matter to this Bench with a direction to admit the company petition after notice to the Corporate Debtor to enable the Corporate Debtor to settle the matter prior to the admission of the application. Thereafter, the above company petition was listed on board from time to time. On 06.02.2020, the counsel appearing for the respondent took an adjournment on the ground that the respondent intends to settle the matter by undertaking that some payment would be made within a week and the remaining payment by March 2020 as the respondent is expecting infusion of funds. Thereafter, the matter was listed on 28.02.2020 and adjourned to 30.03.2020. Thereafter, the matter could not be listed due to lockdown and finally it was listed on 27.01.2021. On 27.01.2021, The counsel appearing for the respondent once again sought time for paying the remaining amount due to 'Operational Creditor' and accordingly, the matter was listed on 05.02.2021. On 05.02.2021, the counsel appearing for the petitioner alone appeared and none appeared for the respondent. Thereafter, this tribunal after hearing the arguments of the petitioner, reserved the matter for order.
3. The submission made by the counsel appearing for the applicant coupled with the observations of the Hon'ble NCLAT in the appeal and makes it very clear that the Hon'ble NCLAT remitted back the matter to this bench only for the limited purpose of giving opportunity to the Corporate Debtor to settle the above matter. The conduct of the Corporate Debtor from the various orders of this bench referred above makes it clear that he has no intention to settle

the matter. Therefore, in the light of the above facts and circumstances this Tribunal is of the considered opinion that it has no option except to admit the above company petition.

4. Accordingly, the above Company Petition is allowed by passing the following:

ORDER

- (a) The above Company Petition No. (IB) -3533(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Harish Textile Engineers Pvt. Ltd.
- (b) Since the applicant has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Umang Subhashchandra Khandelwal** (umang.khandelwal@gmail.com), Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00669/2017-2018/11142 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- (c) The Operational Creditor shall deposit an amount of Rs.1 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- (d) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- (e) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (f) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (g) That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- (h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (i) During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- (j) Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is allowed.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)

Sd/-
H V SUBBA RAO
Member (Judicial)