

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

CP (IB) No. 105/CTB/2019

**CORAM: 1. Ms. Sucharitha R. Member (J)
2. Shri Satya Ranjan Prasad, Member (T)**

In the Matter of:

An application 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;

-And-

In the Matter of:

M/s. Sarada Equipment having registered office at- 94B, 9th Floor, Agarwal Trade Centre, Sector-11, CBD Belapur (E), Navi Mumbai, Maharashtra- 400 614.

.... **Operational Creditor/Applicant**

-Versus-

In the Matter of:

M/s. Neelkantham Systems Private Limited, having registered office at 15-17, B, Deendayal Market, Korba, Chhattisgarh, India- 495 677.

.... **Corporate Debtor/Respondent**

Sd

Sd



Counsels appeared for the Petitioner

1. Umesh Chandra Sahoo [Adv.]

Date of pronouncement of Order: the 19th day of November, 2019.

ORDER

Per: Ms. Sucharitha R. Member (J)

1. The applicant/Operational Creditor **M/s. Sarada Equipment** is represented by Ms. Aparna Nag. This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity IBC) for initiation of Corporate Insolvency Resolution Process of respondent/Corporate Debtor **M/s. Neelkantham System Private Limited**.
2. The respondent/Corporate Debtor is **M/s Neelkantham System Private Limited** registered under Companies Act, 1956 and CIN: **U51505CT2001PTC014514**.

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3. Notice to the respondent/Corporate Debtor was served. However, there was no representation for the respondent/Corporate Debtor, hence, respondent/Corporate Debtor was set ex-parte. We are inclined to hear this application ex-parte.
4. The transactions were of the year from 01.12.2016 to 03.05.2017. This application was filed on 20.08.2019. Hence, the claim is well within the period of limitation.
5. The registered office to the respondent/Corporate Debtor is within the state of Chhattisgarh, hence, this Adjudicating Authority has jurisdiction.
6. The applicant/Operational Creditor submits based on the purchase order of respondent, the applicant supplied Excavation machines on rental to the Corporate Debtor. It was agreed between the parties that charges for services rendered were to be paid within seven days from the date of invoice, failing which the applicant/Operational Creditor is entitled to



claim interest @ of 2% per annum. The applicant states that, since, the Respondent Company failed in making payment to the tune of a sum of Rs. 5,69,678/- (Rupees Five lakh sixty-nine thousand six hundred and seventy-eight only) this application is filed.

7. The applicant/Operational Creditor had supplied the goods under Bill No: -

- (i) Bill No.- 00001 and dated 01.12.2016 net amount receivable 1,39,153/- and payment received 1,14,739/-.
- (ii) Bill No.- 00002 and dated 03.01.2017 net amount receivable 1,53,546/- and payment received 1,14,739/-.
- (iii) Bill No.- 00003 and dated 04.02.2017 net amount receivable 1,97,871/- and payment received 1,17,600/-.
- (iv) Bill No.- 00005 and dated 01.03.2017 for sum 1,74,165/-.
- (v) Bill No.- 00006 and dated 01.04.2017 for sum 1,49,184/-.
- (vi) Bill No.- 00007 and dated 03.05.2017 for sum 1,02,836/-.

8. The applicant/Operational Creditor has filed statement of accounts from Axis Bank, stating no payments were received.

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9. The applicant/Operational Creditor has proposed IRP CA Sandeep Maheshwari residence of 2/21 Geeta Society, Charai, Thane West- 400 601 having **Registration No.: IBBI/IPA-001/IP-P00640/2017-2018/11093** and **E-mail Id.: ayunish@yahoo.com.** There is no disciplinary action against them.
10. The applicant/Operational Creditor submits that notice under Section 8 of IBC dated 03.10.2018 was issued to respondent/Corporate Debtor. However, there was no response from respondent/Corporate Debtor.
11. In view of the above, we are inclined to admit the application by following Order.

ORDER

- (i) The application filed by the Operational Creditor under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **M/s Neelkantham System Private Limited.**

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(ii) Moratorium Order is passed for a public announcement as stated in Sec. 13 of the IBC, 2016. The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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;

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- 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 Securitization 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 possession of the Corporate Debtor.
- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- (v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.



- (vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

- (vii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the Resolution Professional upon receipt of the copy of this order.

- (viii) **CA. Sandeep Maheshwari** residence of 2/21 Geeta Society, Charai, Thane West- 400 601 having **Registration No.: IBBI/IPA-001/IP-P00640/2017-2018/11093** and **E-mail Id.: ayunish@yahoo.com** is appointed as Interim Resolution Professional registered with the ICSI Insolvency Professionals Agency, as Interim Resolution Professional for ascertaining the



particulars of Creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

- (ix) We direct the Operational Creditor to deposit a sum of Rs. One Lakh with Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.
- (x) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petition to the IRP, otherwise coercive steps to follow.
- xi) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.



- xii) Registry is hereby directed to communicate the order under Section 9 (5) (i) of the I.B. Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.

Interim Resolution Professional to file 1st Progress Report on
19.12.2019.

List the matter on 19.12.2019.

Let the certified copy of the order be issued upon compliance with requisite formalities.

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Shri Satya Ranjan Prasad
Member (T)

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Ms. Sucharitha R.
Member(J)

Signed on this, the 19th day of November, 2019.

[Signature]

DR / AR / Court Officer
National Company Law Tribunal
Cuttack Bench

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