

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-I**

**CP (IB) NO. 281 of 2024**

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*

**Titan Contracting Services LLP**

[LLP Identification No.: AAE-1227]

... Operational Creditor/Applicant

Versus

**XRBIA Warai Developers Pvt. Ltd.**

[CIN: U45200PN2013PTC147405]

... Corporate Debtor/Respondent

**Order Pronounced On 28.06.2024**

***Coram:***

Hon'ble Member (Judicial) : Justice V. G. Bisht (Retd.)

Hon'ble Member (Technical) : Sh. Prabhat Kumar

***Appearances:***

For the Operational Creditor : Mr. Pratik Pandey,  
Advocate

For the Corporate Debtor : Ms. Jill Rodricks, Advocate

**ORDER**

*Per:* Justice V. G. Bisht (Retd.), Member (Judicial)

**Brief Facts:**

1. This Company Petition is filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) by **Titan Contracting Services LLP** ("hereinafter referred to as Operational Creditor/Applicant"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **XRBIA Warai Developers Pvt. Ltd.** ("hereinafter referred to as Corporate Debtor /Respondent").
2. The Applicant was originally incorporated in the name of Titan Builders & Developers Private Limited on 17.12.2013 under the Companies Act, 2013. Titan Builders & Developers Private Limited was converted into LLP on 09.06.2015 by the name of Titan Builders & Developers LLP. The name of Titan Builders & Developers LLP was changed to Titan Contracting Services LLP on 17.03.2018 and is engaged in the business of civil and building on a contractual basis in India. The Applicant bears LLP Identification No.: AAE-1227 and has its registered office at 1303, 13<sup>th</sup> Floor, Ellora Fiesta, Sector 11, Opp. Juinagar Rly. Station, Sanpada, Navi Mumbai, Thane, Maharashtra - 400705.
3. The Respondent was incorporated on 16.05.2013 under the Companies Act, 1956. The Respondent is involved in the business of building constructions and development since the year 2013. Its Corporate Identity Number (CIN) is U45200PN2013PTC147405. Its registered office is at 1<sup>st</sup> Floor, Mantri House, 929, F.C. Road, Pune, Maharashtra - 411004. Therefore, this Bench has jurisdiction to entertain and decide the Petition.
4. The total amount due is stated to be Rs.1,49,26,160/- (Rupees One Crore Forty Nine Lakhs Twenty-Six Thousand One Hundred Sixty Only). The Date of Default as stated in the NeSL record is 10.06.2022.

**Submissions of the Applicant:**

5. The Respondent issued a 'Service Work Order' dated 01.03.2022 in favour of the Operational Creditor.
6. The Applicant raised following invoices:
  - i. RA bill no: XWDPL/22-23/001, amounting to a sum of Rs. 55,48,478/- in respect of work completed as of 1.04.2022.
  - ii. RA Bill no: XWDPL/22-23/002, amounting to a sum of Rs. 46,52,032/- in respect of work completed as of 04.05.2022.
  - iii. RA bill no: XWDPL/22-23/003 in respect of work completed as of 10.06.2022, amounting to a sum of Rs. 16,70,880/-.
7. The Operational Creditor further through various letters dated 31.07.2022, 30.09.2022, 22.11.2022, and 31.07.2023 informed the Corporate Debtor regarding the non-payment of the dues and requested to pay the amount due.
8. On 31.03.2023 the Applicant issued a letter to the Respondent confirming the outstanding balance confirmation payable of Rs.1,35,49,287/-.
9. The Applicant sent a Demand Notice dated 21.12.2023 under FORM 3, Rule 5 of the Insolvency and Bankruptcy Rules, 2016 to the Corporate Debtor to its registered address and its office address for repayment of an outstanding amount of Rs.1,49,26,160/-.
10. The Respondent sent a letter dated 28.12.2023 to the Applicant acknowledging the liability, and further ensured that all their creditors should get repayment of entire dues. However, the same has not been repaid till date.

**Submissions of the Respondent:**

11. The Respondent has submitted that the Operational Creditor has completed its work in a timely manner, but due to Covid-19 the business of the Respondent was hampered due to which the Corporate Debtor could not repay the funds of the Applicant.
12. The account of the respondent was converted into NPA in the month of March 2023, which further stalled many of the projects

of the Respondent, which further hampered the business of the Respondent.

13. In order to revive the business, the Respondent also submitted a restructuring plan which was discussed on many occasions but the Respondent received only draft restructuring documents by March 2024. Till this date, the interest had further accumulated, which further hampered the business and profit of the Respondent.
14. The respondent further sought some time to repay the outstanding amount to the Applicant.

**Findings:**

15. We have heard the submissions of the learned Counsel for the Applicant and Respondent. Perused records.
16. From the record, it is seen that the Corporate Debtor has not transferred the amount towards the debt owed to the Applicant. The Corporate Debtor has not issued notice of any dispute and the Applicant has placed on record the affidavit in this relation in terms of Section 9(3)(a)(b) of the Code.
17. The Corporate Debtor has also placed on record the record of default as registered with the National E-Governance Services Limited.
18. The respondent has admitted the existence of debt vide its reply. Also, upon perusal of the Balance Confirmation letter dated 31.03.2023, liability of the Respondent is clearly established.
19. Considering the above facts and circumstances, the debt and default stands established and no dispute in relation to such debt in default has been brought on record.
20. The application made by the Applicant is complete in all respects as required by law. It clearly shows that the Respondent is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Debtor.
21. The Petition bearing **CP (IB) 281/MB/2024** filed by **Titan Contracting Services LLP** [LLP Identification No.: AAE-1227],

the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **XR BIA Warai Developers Pvt. Ltd.** [CIN: U45200PN2013PTC147405], the Corporate Debtor, is **admitted**.

22. There shall be a moratorium under section 14 of the IBC, in regard to the following:
  - i. 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;
  - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - iii. 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 (SARFAESI) Act, 2002;
  - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
23. Notwithstanding the above, during the period of moratorium: -
  - i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
  - ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
24. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
25. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

26. The Applicant has proposed the name of **Mr. Vikas Gopichand Khiyani** as the Interim Resolution Professional (IRP). We hence, hereby appoint **Mr. Vikas Gopichand Khiyani** having registration no. **IBBI/IPA-001/IP-P02738/2022-2023/14194**, and **email ID cavikas.khiyani@gmail.com** as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
27. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
28. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
29. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
30. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within **seven days** from the date of receipt of a copy of this order.
31. Ordered accordingly.

Sd/-

**Prabhat Kumar**  
Member (Technical)

MK

Sd/-

**Justice V. G. Bisht (Retd.)**  
Member (Judicial)