

**THE NATIONAL COMPANY LAW TRIBUNAL  
"CHANDIGARH BENCH, CHANDIGARH"  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 441/Chd/Hry/2019**

**Under Section 9 of Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

**Anhui Technology Imp. Exp Co. Ltd**

A company incorporated under the laws  
of Peoples Republic of China,  
Having its Office at 459 West Changjiang Road,  
Hefei, China.

Through its Authorized Signatories  
Mr. Manoj A.I. & Mr. Ratheesh Joseph,  
Both Indian Citizens, # 104, Pocket-I, Jasola,  
New Delhi-110025

...Petitioner-Operational Creditor

Vs.

**AK Edu Technologies Private Limited.**

Having its Registered Office at 563,  
East Mohan Nagar-A, Amritsar-143001  
Punjab.  
CIN No. U72900PB2013FTC037278

...Respondent-Corporate Debtor

**Judgement delivered on: 23. 01.2023**

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)  
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Petitioner-  
Operational Creditor : Mr. Prateek Gupta with Mr. Rahul Soi,  
Advocates

For the Respondent-  
Corporate Debtor : Proceeded *ex parte* vide  
order dated 13.10.2022.

**Per: Harnam Singh Thakur, Member (Judicial)**

**JUDGMENT**

The present petition is filed, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**for brevity 'IBC' / 'Code'**), by **Anhui Technology Imp. Exp Co. Ltd** through its Authorized Signatory Mr. Manoj A.I. & Mr. Ratheesh Joseph, (**for brevity 'Operational Creditor' / 'Petitioner'**), with a prayer to initiate Corporate Insolvency Resolution Process (**CIRP**) in case of **AK Edu Technologies Pvt. Ltd.** (**for brevity 'Corporate Debtor' / 'Respondent'**).

2. The Corporate Debtor, namely, AK Edu Technologies Pvt. Ltd, is a Company incorporated on 28.03.2013 under the provisions of Companies Act, 2013 with CIN No. U72900PB2013FTC037278 with its Office: at 563, East Mohan Nagar-A, Amritsar-143001, Punjab. Hence, the territorial jurisdiction lies with this Adjudicating Authority. Copy of master data of corporate debtor is attached with the main petition and marked as (Page No.46-A).

3. The facts of the case, briefly, as stated in the petition are that the Corporate Debtor raised a Purchase Order No.HG20161227003-I dated 24th April, 2017 for purchasing various electronic goods e.g. Tablet PC (hereinafter referred to as "Goods"), for a total sale consideration of USD2,10,308.00. Accordingly, Operational Creditor supplied Tablet PC, accessories, and other allied materials to the Corporate Debtor. Details of the Invoices are as under :-

Sl. No.	Invoice Nos.	Invoice Date	Due Date	Invoice Amount (USD)
1	AJ17AN3272385	27/04/2017	26/07/2017	2,10,308.00

The corporate debtor made a part payment of USD20,000.00 on 27th June 2017 to the operational creditor, however, the CD failed to make payment of the balance sum of USD1,90,308.00. Advocates of the operational creditor vide emails dated 3rd October 2017 and 10th October 2017 demanded the due payment from the corporate debtor.

4. It is submitted by the petitioner in Form 5, Part IV that the amount claimed to be in default is United States Dollar 1,90,308.00 (Equivalent to Rs. 1,35,19,480.32/- considering the exchange of rate of Rs.71.4 = 1 USD as on 25.02.2019) (Rupees One Crore Thirty-Five Lakhs Nineteen Thousand Four Hundred Eighty and Paise Thirty-Two Only) and default occurred on 27.04.2017 i.e. last invoice raised. Copy of Board Resolution dated 20.12.2018 (Exhibit- B), Purchase order and Airway Bill, Packing List and Cargo Receipt, (Exhibit- C), invoices No.AJ17AN3272385 (Exhibit- D) & Rejoinder dated 30.12.2017, Postal Receipts and tracking reports along with OC's Statement dated 18th December 2017 and proof of part payment of USD20,000.00 dated 27.06.2017 (Exhibit- H), is attached with the main petition.

5. A demand notice is stated to be issued by the operational creditor on 11.10.2017 through registered post (Exhibit- F). The corporate debtor submitted its reply dated 20.11.2017, wherein it is stated that M/s Anhui Tech Import and Export has not posted the full and correct facts of the case which are totally contrary to the contentions as made in the notice

under reply as the amount claimed under the said notice is not at all due and payable. The corporate debtor received goods in good condition and confirmed the same vide Cargo Receipt dated 03.05.2017. It is apparent that the applicant deceived the corporate debtor from the very inception by remitting the initial part payment of USD20,000/- and in pursuance of their illegal designs, false and baseless allegations are made regarding the specification/standard of goods (Exhibit-H). The rejoinder dated 30.12.2017 to reply was sent via registered post wherein, it is stated that it is denied that the products delivered were not as per specifications.

6. Notice of this petition was given to the respondent-corporate debtor to show cause as to why this petition be not admitted. The affidavits of service were filed vide Diary No.6641 dated 27.11.2019, diary No.6798 dated 03.12.2019, and Diary No.157 dated 08.01.2020. Vide order dated 13.10.2022 none appeared on behalf of the respondent corporate debtor, it appeared that the respondent corporate debtor was not interested in defending the said petition, therefore, the respondent-corporate debtor was proceeded against ex parte. The short written submissions were filed by the applicant vide Diary No. 00184/3 dated 15.12.2022.

7. We have heard the learned counsel for the petitioner and have perused the records.

8. The first issue for consideration is whether the demand notice dated 11.10.2017 was sent by the corporate debtor through the registered post, tracking report shows that the demand notice was duly served (Exhibit-F). The corporate debtor submitted its reply dated 20.11.2017, wherein it is stated that the operational creditor has not posted the full and correct facts of

the case which are totally contrary to the contentions as made in the notice under reply as the amount claimed under the said notice is not at all due and payable (Exhibit-G). The rejoinder dated 30.12.2017 to reply was sent via registered post wherein, it is denied that the products delivered were not as per specifications. The operational creditor delivered the goods in good condition and confirmed the same vide Cargo Receipt dated 03.05.2017. It is apparent that the corporate debtor induced the operational creditor from the very inception by remitting the initial part payment of USD20,000/- and in pursuance of their illegal designs, false and baseless allegations are made regarding the specification/standard of goods (Exhibit-H).

9. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. It is deposed by way of affidavit vide diary No.4561 dated 04.09.2019, that no dispute was raised by the corporate debtor regarding any amount due to the applicant-operational creditor before sending the demand notice under Section 8 of IB Code, 2016 on 11.10.2017. Thus, this affidavit be read in compliance of the provisions of Section 9(3)(b) of the IBC Code. Therefore, operational debt was not disputed by the corporate debtor.

10. The other issue for consideration is whether this application is filed within limitation. A demand notice issued dated 11.10.2017 is attached as Exhibit-F. However, the period of limitation would begin from the date of default 27.04.2017 i.e. last invoice raised. Copy of Board Resolution dated 20.12.2018 (Exhibit- B), Purchase order and Airway Bill, Packing List and Cargo Receipt, (Exhibit- C), invoices No.AJ17AN3272385 (Exhibit- D) & Rejoinder dated 30.12.2017, Postal Receipts and tracking reports along with

OC's Statement dated 18th December 2017 and proof of part payment of USD20,000.00 dated 27.06.2017 (Exhibit- H) are attached with the main petition. The present application under Section 9 of the Insolvency and Bankruptcy Code,2016 has been filed on 06.08.2019 vide Diary No. 3922 and re-filed on 27.08.2019. Vide order dated 02.01.2023, it was recorded that there was a delay of 94 days in re-filing the application under Section 9 of the Code. The ground of delay was mentioned in para 4 page No. B and the application were supported by an affidavit. The delay of 94 days in filing the application under Section 9 was allowed vide order dated 02.01.2023. Therefore, this Adjudicating Authority finds that this application is filed within limitation.

11. We have gone through the contents of the application filed in Form 5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of United States Dollar 1,90,308.00 (Equivalent to Rs. 1,35,19,480.32/- considering the exchange of rate of Rs.71.4 = 1 USD as on 25.02.2019) (Rupees One Crore Thirty-Five Lakhs Nineteen Thousand Four Hundred Eighty and Paisa Thirty-Two Only). The operational Creditor supplied Tablet PC, accessories, and other allied materials to the Corporate Debtor. Copy of Board Resolution dated 20.12.2018 (Exhibit- B), Purchase order and Airway Bill, Packing List and Cargo Receipt, (Exhibit- C), invoices No.AJ17AN3272385 (Exhibit- D) & Rejoinder dated 30.12.2017, Postal Receipts and tracking reports along with OC's Statement dated 18th December 2017 and proof of part payment of USD20,000.00 dated 27.06.2017 (Exhibit- H) is attached with the main petition.

12. It is noted that the corporate debtor has failed to make remaining payment of the aforesaid amount due as mentioned in the statutory notice till date. Thus, the conditions under Section 9 of the Code stand satisfied. It is evident that from the above-mentioned facts that the liability of the corporate debtor is undisputed. Accordingly, the petitioner proved the debt and the default, which is above the threshold limit of Rupees One Crore.

13. In the present petition all the aforesaid requirements have been satisfied. It is seen that the petition preferred by the petitioner is complete in all respects. The material on record clearly goes to show that the respondent committed a default in payment of the claimed operational debt even after the demand made by the petitioner. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIR Process in the case of the Corporate Debtor, AK Edu Technologies Private Limited. and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

14. In Part-III of Form No. 5, no Interim Resolution Professional (IRP) has been proposed by the petitioner. However, vide Dairy No. 00184/5 dated 12.01.2023, IRP is proposed by way of affidavit along with Form 2 dated 05.01.2023, certification of registration issued by Insolvency and Bankruptcy Board of India and Form-B dated 25.10.2022 in which AFA Certification is valid till 24.10.2023. The Law Research Associate of this Tribunal has checked the credentials of Mr. Gurdev Bassi and there is nothing adverse against him. In view of the above, we appoint Mr. Gurdev Bassi, Registration No.IBBI/IPA-001/IP-P01633/2019-2020/12504, E-mail:

ipgurdevbassi@gmail.com, Mobile No. 9357052828 as the Interim Resolution Professional with the following directions:-

- i.) The term of appointment of Mr. Gurdev Bassi shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;
- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;



iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;

v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

vi.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining

the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

vii.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

ix.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

15. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Securitization and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 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.

16. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, if any, shall not be terminated or suspended or interrupted during moratorium period. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

17. The order of moratorium shall have effect from the date of this order till 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 the corporate debtor under Section 33 as the case may be.

18. The petitioner is directed to deposit an amount of ₹1,00,000/- (Rupees One Lakh Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

19. A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

20. This petition is accordingly admitted.

Sd/-  
(Subrata Kumar Dash)  
Member (Technical)

Sd/-  
(Harnam Singh Thakur)  
Member (Judicial)

January 23, 2023  
sd/TB