

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

CP (IB) No. 102/Chd/Hry/2020

**Under Section 9 read with Section
8, 13, 14 & 33 and other applicable
provisions of 'The Insolvency and
Bankruptcy Code, 2016'**

IN THE MATTER OF:

M/s Ashtech Industries Private Limited
(CIN: U74899DL2002PTC116862)
Through its Authorized Representative
Having its registered office at
D-49, Mansarovar Park,
Shahdara, Delhi-110032

.....Operational Creditor

versus

M/s RCC Infra Ventures Private Limited
(CIN: U45400HR2011PLC048807)
having its registered office at
14, Ground Floor, Vipul Agora,
M.G. Road, Sector-28
Gurgaon-122001

... Corporate Debtor

Judgement delivered on: 25.04.2024

**Coram: Hon'ble Dr. PSN Prasad, Member (Judicial)
Hon'ble Mr. Umesh Kumar Shukla, Member (Technical)**

For Petitioner-Operational Creditor: Mr.J.S. Bhatia, Advocate
For Respondent-Corporate Debtor: Mr. Manish Jain, Advocate

**Per: Dr. PSN Prasad, Member (Judicial)
Umesh Kumar Shukla, Member (Technical)**

JUDGMENT

The present application has been filed by **M/s Ashtech Industries Private Limited (for brevity 'Operational Creditor')** vide Diary No. 474 dated 17.01.2020 under Section 9 read with sections 8, 13, 14 and 33 of 'The Insolvency and Bankruptcy

Code, 2016' (for brevity 'IBC'/ 'Code') for initiation of Corporate Insolvency Resolution Process (CIRP) against the **M/s RCC Infra Ventures Private Limited** (for brevity 'Corporate Debtor').

FACTS OF THE CASE

1. The facts of the case, as stated by the Operational Creditor in the petition, are as below:

- (i) The Operational Creditor, namely, **M/s Ashtech Industries Private Limited**, was incorporated under the provisions of the Companies Act, 1956 and its authorized and paid up share capital is Rs.5,00,00,000/- and Rs.1,53,60,000/- respectively. Sh.Sanjeev Kumar is director of the Applicant Company and is authorized officer by virtue of Board of directors resolution dated 05.12.2019 in his favor to institute, file, verify and present this petition before this Hon'ble Tribunal. A copy of the Board resolution and certificate of incorporation have been annexed with the Application as Annexure P-1 and Annexure P-2 respectively.
- (ii) The Corporate Debtor, namely, **M/s RCC Infra Ventures Private Limited**, was incorporated on 16.05.2011 under the provisions of the Companies Act, 1956 and its authorized and paid up share capital is Rs.5,00,00,000/- and Rs.2,98,20,000/- respectively (as per information and master data derived from the website of Ministry of Corporate affairs). The copy of Master Data of the Corporate Debtor has been annexed with the Application as Annexure P-3.
- (iii) The Corporate Debtor approached the Operational Creditor through its Director in the month of February 2019, for deployment of one Hydraulic

Piling Rig MAIT HR-180 machine on monthly rental basis at Via-Duct Mumbai Metro Rail Project. After negotiations, a work order dated 11.02.2019 was placed by the Corporate Debtor and a Piling Rig MAIT HR-180 Model 2018 was deployed by the Operational Creditor on 16.02.2019 at the said site at a monthly rental of Rs.13,75,000/- (excluding taxes) for a period of 12 months.

- (iv) The Corporate Debtor along with the above mentioned work order had also given three pre-filled cheques of Rs.16,22,500/- (monthly rental + applicable taxes) with an instruction to present them in case the corporate debtor commits default in paying the rent.
- (v) The Corporate Debtor requested the Operational Creditor vide its email dated 26.02.2019 for an additional operator and helper for operating the said machine at the said site. Vide email dated 28.02.2019, the operational creditor replied to the Corporate Debtor that extra costs will be applicable for providing additional operator and helper. The Corporate Debtor vide its email dated 01.03.2019, duly agreed to the levy of extra charges.
- (vi) The Corporate Debtor started defaulting in making payments of monthly rental and the Operational Creditor had asked, vide its emails dated 01.07.2019 & 08.07.2019, to clear the outstanding at the earliest, but of no avail. Thereafter, a meeting was held between the parties at Gurugram office of Corporate Debtor, wherein the Corporate Debtor expressed their inability to clear the dues and requested for some time for clearing the outstanding amount. The said inability was conveyed to the Operational Creditor vide email dated 18.07.2019. The Operational Creditor, however

refused to give more time and asked the Corporate Debtor to clear the dues by 22.07.2019.

- (vii) After the Corporate Debtor failed to meet the aforesaid deadline, the Operational Creditor, vide its email dated 03.08.2019, sent a notice for de-hiring of the said machine deployed at the said site by 02.09.2019 and the Corporate Debtor, vide an email dated 02.09.2019, informed the Operational Creditor that the said machine was de-hired. On 03.09.2019, the Operational Creditor again sent a notice to the Corporate Debtor that the outstanding be cleared, but no response was sent by the Corporate Debtor.
- (viii) The Operational Creditor, as a last resort, sent a Demand Notice dated 05.11.2019 under section 8 of Insolvency and Bankruptcy Code, 2016 demanding the pending dues along with copies of work order, emails exchanged between the parties and pending invoices, which are pending for payment till date by the Corporate Debtor. The said notice was duly served upon the Corporate Debtor through email and speed post. A copy of demand notice dated 05.11.2019 along with annexures has been annexed with the as Annexure P-4 of the Application.
- (ix) The Corporate Debtor had issued a reply dated 16.11.2019 to the demand notice raising all false, frivolous and baseless disputes. A copy of reply dated 16.11.2019 has been annexed with the Application as Annexure P-5. The Corporate Debtor has neither raised any dispute/record of pendency of the suit nor made the entire payment of unpaid operational debt. A copy of proof of service, delivery report and reply sent by the corporate debtor are annexed as Annexure P-6 of the Application.

- (x) A sum of Rs.70,89,336/- (Rupees Seventy Lakh Eighty Nine Thousand Three Hundred and Thirty Six only) including interest @ 18% thereof remains due and payable by the Corporate Debtor to the Operational Creditor. The Operational Creditor in Part-IV of its Application stated that the date of default is 01.07.2019.
- (xi) The Corporate Debtor has not paid its debts and therefore, in such premises, it is just and equitable that Corporate Insolvency Resolution Process may be initiated against the Corporate Debtor and the instant Application may be allowed by this Tribunal.

REPLY OF THE CORPORATE DEBTOR-

2. The Corporate Debtor filed reply vide Diary No. 00143/5 dated 12.06.2023, in which it was prayed that the Application be dismissed with exemplary cost as it is not maintainable on the following grounds:

- (a) A careful perusal of the work order, attached as Annexure R-2 of the reply, would reveal that the Operational Creditor has failed to acknowledge or attest the said work order. Last page of the said work order bears the signature of the authorised signatory of the Corporate Debtor, but the acceptance or indication of the Operational Creditor is blank/ not certified, thereby the said work order was, since its inception, disputed and the terms of hiring/ engagement were yet to be settled. The Operational Creditor has failed to accept the work order and therefore, in absence of the same, the work order is to be treated as a provisional or draft work order.
- (b) The terms and conditions of the work order were, since not accepted by the Applicant, certain material clauses of the contract were yet to be settled and

agreed upon. Primary bone of contention of the Operational creditor was with respect to the number of working hours of the subject equipment. On account of the shuddering urgency, the subject equipment was hired and delivered at site on 16.02.2019 and the same was also put into operation. The Operational Creditor has failed and concealed in bringing forth the aforesaid pre-existing dispute before this Tribunal.

- (c) The Corporate Debtor being a sub-contractor of MBZ RCC (JV) was carrying out part construction of the project for MMRDA (Mumbai Metropolitan Region Development Authority) and in order to carry out the construction, it had hired the subject equipment of the Operational Creditor. The Operational Creditor had purchased the said equipment recently and it was for the first time that the said equipment was put to operation. However, the Operational Creditor and their operators did not have any experience or expertise to operate and maintain the said equipment, due to which the Corporate Debtor suffered huge losses and eventually lost the projects as they were terminated by the client i.e. MMRDA due to poor performance attributable to agencies.
- (d) In case the work order is accepted at its face value, the Operational Creditor has patently not met with the pre-requisites of the work order and consequently same formed the basis of 'pre-existing' dispute. Pursuantly, a notice of dispute was given to the Corporate Debtor in reply dated 16.11.2019 (Annexure P-5 of the application) against the Section 8 Demand Notice.
- (e) As per clause 4.1 of the work order, it was mandated in categorical terms that the working of subject equipment will be 280 Flexi Hours in a month and

further it was binding that subject equipment will work for 26 days in the month. The condition stipulated, was for the purposes of keeping up with the pace of construction in consonance to the obligations dictated by MBZ RCC(JV) (main contractor) and MMRDA. The subject equipment underwent breakdowns on an incessant basis and the same being put in operation for the first time ever, the Pilling Rig operator along with his Helper (provided by the Operational Creditor) lacked the technical know-how to carry out the works and operate the machine effectively, which grossly affected the working hours. The corporate debtor has submitted the working hours of the machine drawn on monthly basis. The total working hours of the subject machine is a total of 818.7 hours against the mandated 1,960 hours as shown below:

Month	February	March	April	May	June	July	August	Total
Hours	72.7	75.1	246.9	102.0	153.0	169.0	Log Book not shared with Corporate Debtor	818.7

- (f) As per clause 12.1 of the work order, the Operational Creditor is bound to provide log books reflecting the number of working hours, the subject equipment undertook on each day, which is then ratified by the P&M In-charge of the Corporate Debtor, available at the site. The Operational Creditor duly submitted the log books except for the month of August along with the rental invoices to Corporate Debtor, however the same have not been made a part of the record before this Tribunal and the Operational Creditor has actively concealed the same in order to prevent any incrimination qua them, because then it would also reveal the factum of 'pre-existing dispute'. The log book attached with the reply as Annexure R-3 reveals the actual number of working hours and idle hours (on account of

breakdown, inefficiency of rig operator and his helper, erosion/ ablation of wire ropes) and the Operational Creditor has raised inflated invoices despite the working hours of the machine being half of the prescribed mandate.

- (g) There is a 'pre-existing dispute', which has also been brought to the attention of the Operational Creditor on several occasions and therefore, it is contended by the corporate debtor that he is entitled to take benefit of section 9(5)(2)(d) of Insolvency and Bankruptcy code, 2016.
- (h) The Corporate Debtor has also made the following additional submissions to support his stand of pre-existing dispute:
- The Operational Creditor never provided log book entries reflecting the working hours in the month of August, but have shared a rental invoice of the same duration.
 - On 01.06.2019, the Corporate Debtor credited Rs.16,22,500/- through RTGS in favour of the Operational Creditor as an advance payment against the invoices being raised, however on the same date with unwarranted modus, the Operational Creditor presented the security cheque no.1404 dated 31.05.2019, which was ultimately dishonoured. The Corporate Debtor also made another entry worth Rs.8,11,250/- dated 02.07.2019 in favour of Operational Creditor. However, the operational creditor also parallely triggered section 138 N.I. Act proceedings against the Corporate Debtor.
 - Perturbed by the illegal and unwarranted acts and omissions of the Operational Creditor, the Corporate Debtor requested the Operational Creditor to de-hire subject equipment. But the Operational Creditor served notice of de-hiring upon Corporate Debtor on 03.08.2019, but

did not take away the subject equipment till 02.09.2019, so as to generate the invoice of another month of August.

- From 16.02.2019 and up until 03.09.2019, the operational creditor did not finalise and settle upon the terms and conditions of the work order dated 11.02.2019. Till date, no formal enforceable agreement/ contract subsists between both the parties qua hiring of the subject equipment.
 - The operational creditor is seeking payment in full as per the unsigned work order despite providing half of the service (working hours) in dereliction to the mandate of the unsigned work order.
 - Inefficient machinery and poor operation staff delayed the pace of the project and construction at the site.
 - Illegal realization and presentation of cheque no. 1404 dated 31.05.2019.
- (i) The corporate debtor also placed reliance on civil appeal no. 9405 of 2018, 'Mobilox Innovations Pvt. Ltd. vs. Kirusa Software Pvt. Ltd. and prayed that the present application be dismissed at the first instance with exemplary cost.
- (j) The Corporate Debtor has submitted its written submissions vide Diary No. 00143/7 dated 31.10.2023 and Diary No. 00143/8 dated 20.12.2023, in which it reiterated the points raised in its reply.

REJOINDER BY OPERATIONAL CREDITOR

3. The rejoinder was filed by the Operational Creditor vide diary no. 00432/6 dated 07.07.2023, in which it has reiterated the pleadings made in the Application and also submitted that:

- (i) In discharge of its legal liability, the Corporate Debtor issued three post-dated cheques amounting to Rs.16,22,500/- each, which were dishonoured. The factum of issuance of cheque to pay the invoices clearly shows that the Corporate Debtor gave the work order and was paying in terms of work agreement, which was agreed upon by both the parties.
- (ii) The work order was very much accepted, signed and acted upon and the same is evident from the facts that the machinery in question was installed, operated and performed the job as per terms and conditions of the agreement and the original work order has been attached with the complaint filed by the applicant against the respondent in a suit filed under section 138 of the Negotiable instruments Act, which is pending for adjudication before the Hon'ble Chief Metropolitan Magistrate, Shahadra District, Karkardooma Court, Delhi. The copy of the work order has been attached as Annexure A-1 of the rejoinder. Further, the Corporate Debtor itself admits hiring and using machinery at their site since 16.02.2019, thus, the unconditional operability of the work order is automatically established creating liability on the Corporate Debtor to pay accordingly.
- (iii) The Corporate Debtor in order to frustrate the claim of the Operational Creditor has alleged that the machine worked for 818.7 hours against mandatory 1960 hours. The equipment remained within the yard/ working site of the Corporate Debtor at all times and the machine, operators as well as helpers were working as per requirement and instructions of the Corporate Debtor. Further, in terms of the work order, the Operational Creditor always submitted copy of log books reflecting the number of working hours duly countersigned by the incharge/ person deputed by the

Corporate Debtor at the site along with all retail invoices. A perusal of the log books shows that the machinery as well as the operators and helpers were uninterruptedly present at site and were working at the instructions of the person incharge, the machinery shown to be idle is on account of the preferences and instructions of respondent's representative at the site and any delay is on the part of the team of the respondent, there was no material breakdown of the machine during the time, the same was commissioned at the site, thus the Corporate Debtor at this stage cannot be permitted to raise such flimsy arguments. The copy of the logbook duly countersigned by Corporate Debtor have been annexed with the rejoinder as Annexure A-3.

- (iv) The machinery alongwith its operators and helpers was available at the site till the time, the same was de-hired i.e. 02.09.2019, thus the invoices up to 02.09.2019 have been raised.
- (v) The Operational Creditor was asked to de-hire the equipment on 03.08.2019 due to their illegal and unwarranted acts are totally wrong. Rather, Corporate Debtor was served the notice on 03.08.2019 for de-hiring the machine and asked to de-hire the machine only on 02.09.2019, the copy of the communication is attached as Annexure A-4 of the rejoinder.
- (vi) No communication with respect to any deficiency or incapacity on the part of the Operational Creditor or machinery or personnel has ever been communicated during the subsistence of the work order. Thus, the argument with respect to deficiency or incapacity in this regard is an attempt to thwart the justifiable claim of the Operational Creditor.

ANALYSIS AND FINDINGS

4. We have heard the learned counsels for the Operational Creditor and Corporate Debtor and carefully gone through the pleadings, documents and all other records submitted by both the parties in support of their respective stand in the matter.

5. The issue for consideration is "*Whether demand notice in form 3 was properly served*". The operational creditor had served the demand notice dated 05.11.2019 in form 3 and as per the Affidavit filed by Operational Creditor vide Diary No.001398 dated 19.02.2020, the same was delivered to the Corporate Debtor on 06.11.2019. The Corporate Debtor replied to the demand notice vide letter dated 16.11.2019, which is well within 10 days of receipt of the notice. Further, no payment has been made by the Corporate Debtor and in reply to the demand notice, the corporate debtor has raised the dispute with regard to the quality of the service. Therefore, it is clear that the demand notice was properly served.

6. The next issue for consideration is "*Whether the present section 9 application is filed within the limitation*". The present application was filed vide diary no. 474 dated 17.01.2020. The date of default as mentioned in the part-IV of form 5 is 01.07.2019. Therefore, this Adjudicating Authority finds that the petition is well within the limitation.

7. The next issue for consideration is "*Whether there was a pre-existing dispute between the parties*".

7.1 It is deposed by way of an affidavit under Section 9(3)(b) by the Operational Creditor that the corporate debtor has not issued any notice of dispute in terms of provisions of Insolvency and Bankruptcy Code, 2016 relating to dispute of the unpaid operational debt. However, the Corporate Debtor has centered its defense primarily

around the contention that there were pre-existing disputes between the parties with regard to the quality of service/ staff provided by the Operational Creditor.

7.2 It is evident from the pleadings of both the parties that the claim of Corporate Debtor regarding the pre-existing dispute is not supported by the required material evidence. Though, the Corporate Debtor contended that the terms and conditions of work order dated 11.02.2019 were yet to be settled and to be agreed upon; since the equipment was delivered to the Corporate Debtor on 16.02.2019 and the Corporate Debtor also paid rent of few months, there is an implied/ tacit understanding between both the parties. No material proof of existence of dispute or communication of dissatisfactory work done by the subject equipment and the staff deployed for operating the same has been established by the Corporate Debtor prior to the issuance of demand notice by the Operational Creditor.

7.3 Further, as per the record submitted by Operational Creditor, the corporate debtor in reply to the email of operational creditor demanding the outstanding dues, wrote an email dated 18.07.2019, wherein the Corporate Debtor stated that they can make further payments in 90-100 days from the date of invoice, because due to monsoon season, their payment from MMRDA are getting effected and 45 days payment cycle is difficult to maintain. It was also stated in the mail that the 90-100 days payment cycle will be applicable from April 2019 onwards. The copy of the email is attached at page 49 of the Application. In that email, the Corporate Debtor clearly acknowledged the existence of debt and sought time for the payment.

8. We have gone through the contents of the application filed in the Form 5. From the records placed before this Adjudicating Authority, it is found that there is a total unpaid operational debt (in default) of ₹70,89,336/- (Rs. Seventy lakh eighty nine thousand three hundred and thirty six only) is above the threshold limit as on the date

of filing of application under section 9. Having regard to the above, the Corporate Debtor has not disproved the claim raised by the operational creditor.

9. In view of the above, this Adjudicating Authority is of the considered view that this is a fit case for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor, M/s RCC Infra Ventures Private Limited. The applicant has not proposed any name of Interim Resolution Professional and therefore, out of the list made available by IBBI for the period January 1, 2024 to June 30,2024, we hereby appoint Mr. Naveen Singal, Registration No IBBI/IPA/001/IPPP01650/2019-2020/12520, E-mail: naveen.singal@yahoo.co.in , Mobile No. 9871808788 Address- 302, Tower 5, Valley View estate, Gwal Pahari, Faridabad Road, Gurgaon, Haryana, 122003 as the Interim Resolution Professional, whose credentials have been checked and there is nothing adverse against him, with the following directions:

- (i) The term of appointment of Mr. Naveen Singal shall be in accordance with the provisions of Section 16(5) of the Code, subject to his written consent to be filed within 7 days of this order;
- (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 the 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, especially the name of the service provider, the internet protocol address of the Service Provider and its location, and also address of the location of the Books of Accounts maintained on 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.

- (vii) A reference is made to the provisions of Section 128(5) of the Companies Act 2013, whereby every company should maintain its books of accounts for not less than eight financial years immediately preceding a financial year. Minutes and statutory records are the principal documents of the company that should be maintained and preserved since inception. In view of the above mandatory provisions, the suspended directors of the board will ensure that the books of accounts for the eight previous financial years preceding the date of this order be made available to the IRP/ RP within 15 days of the initiation of the CIRP order. The statutory auditor is also directed to share the records maintained by him in the course of the audit of the accounts of the corporate debtor for the period of three years prior to the date of initiation of this CIRP order within the same period of 15 days.
- (viii) 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 empaneled 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.

- (ix) 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.
- (x) This Adjudicating Authority further directs the ex-management and promoters of the corporate debtor to specifically comply with the provisions of the Sub Regulation (2) of Regulation 4 of the Insolvency Resolution Process for Corporate Persons Regulations, 2016. The RP is directed to make a specific mention of any non-compliance in this regard in his status report filed before this Bench and move an application seeking appropriate remedy, if required. This is imperative for meeting the Code's objectives

for maximising the value of the assets of the corporate debtor and by completing the resolution process in a time-bound manner.

- (xi) The Interim Resolution Professional shall, after collation of all the claims received against the Corporate Debtor and the determination of the financial 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
- (xii) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

10. In terms of Section 14 of the code, we also order moratorium as below:

- (i) Moratorium under section 14 (1) for prohibiting all of the following, namely:
 - (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (b) transferring, encumbering, alienating or disposing off 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 Securitisation 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 the possession of the corporate debtor.
- (ii) It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;
- (iii) The provisions of sub-section of section 14(1) shall not apply to such transactions, agreements or other arrangement, as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; and also to a surety in a contract of guarantee to a 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 moratorium period, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances, as may be specified.
- (v) The order of moratorium shall have effect from the date 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 the corporate debtor under Section 33 as the case may be.

11. We direct the Operational Creditor to deposit a sum of ₹4,00,000/- (Rupees Four Lakh Only) with the Interim Resolution Professional, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The said amount, however, is subject to adjustment by the Committee of Creditors, as accounted for by the Interim Resolution Professional on the conclusion of CIRP.

12. 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.

This Application is accordingly admitted.

Sd/-

(Umesh Kumar Shukla)
Member (Technical)

April 25, 2024

Vanshika

Sd/-

(PSN Prasad)
Member (Judicial)