

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

IB-/671(ND)/2020

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

Saurav Keshan.
(Prop. M/s Inspired Traveller)
Having its office at:-
D-22, 3rd Floor, Amar colony
Lajpat Nagar-4, New-Delhi-110024

...Operational Creditor

Versus

Katalist Viewpaper Pvt. Ltd.
Having its Registered office at:-
Plot in Kh No. 338/10/3, 1st floor
Shahbadpur, New Delhi-1100066

...Corporate Debtor

Coram:

DR. P.S.N. PRASAD
Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ
Hon'ble Member (Technical)

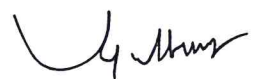
Counsel for Operational Creditor: Mr. Mohit Gulati, CS

Order Delivered on:18.12.2020

ORDER

As Per Dr. V.K Subburaj, Member (Technical)

1. The applicant, Saurav Keshan proprietor of M/s Inspired Traveller has filed the present application seeking to initiate CIRP against the Respondent



company /Corporate Debtor M/s Katalist Viewpaper Private Ltd., under Section 9 of IBC 2016 for the alleged default on the part of the Corporate Debtor in settling the total amount of Rs. 17,80,524/-. The details of transactions leading to the filing of this petition as averred by the petitioner are as follows:-

- a. The Operational creditor is in the business of advertisement and media/video content creation. Further the corporate debtor hired the operational creditor for video production and workshop executions by issuing several purchase orders.
- b. That in respect of the services, the Corporate Debtor itself issued purchase orders of the operational creditor and thereafter the operational creditor raised invoices upon which the payment has been defaulted.
- c. That the operational creditor issued invoices against the Purchase Orders issued by the corporate debtor. Further other invoices against the Purchase orders were issued dated 13.06.2018, 16.10.2018 and 18.01.2019. Copies of the Purchase Orders alongwith the Invoices has been placed on record.
- d. In respect of the transactions between the operational creditor and corporate debtor, the details of transaction on account of which such debt fell due for services rendered by the operational creditor are on record. Copy of ledger of the corporate debtor in the books of the operational creditor for the period of 01.04.2017 to 04.12.2019 placed on record.



- e. It is submitted that the corporate debtor paid the amount against the invoices in part which was adjusted in FIFO basis. Further the payment against the first invoice issued by the operational creditor was made in part which was fallen due over 18 months and the payment against second invoices issued was also made in part which was fallen due over 12 months.
- f. In respect of the last payment made on 17th June 2019 amounting to Rs. 7,52,328/- by the corporate debtor against the fourth invoice issued by the operational creditor, no single payment was made thereafter. Furthermore the corporate debtor thereafter defaulted in making the payment and also avoid and overlooked the debt.
- g. That the operational creditor sent various reminders/e-mails/made phone calls to the corporate debtor requesting for release of the outstanding payment of the unpaid operational debt. Further the corporate debtor replied to the emails of the operational creditor on various dates since issuance of invoices. It is pertinent to mention that the corporate debtor not cleared the pending payment in consideration of services. Copies of the emails and replies to the emails are placed on record.
- h. That the operational creditor sent a Demand Notice dated 04.12.2019 demanding payment of an unpaid operational debt as per provisions under Rule 5 of the Insolvency and



Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Copy of the Demand Notice dated 04.12.2019 demanding payment in prescribed Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 duly served upon the corporate debtor along with proof of delivery and track report are attached with the petition.

2. Upon notice being issued, the Corporate Debtor put in its appearance and filed their reply. In their reply filed before this Bench it is submitted that the operational creditor i.e Inspired Traveller had no direct dealings with Katalist (corporate debtor) and was approached directly by Honour/Motivator for a proposal pursuant to which the operational creditor negotiated the scope of work, specifications, payment terms and other aspects directly with the Honor and Motivator. It is alleged that the payment of the claim of the operational creditor should be made by the Honor/ Motivator not by the Corporate Debtor and therefore there is no operational debt due to be paid by the Corporate Debtor to the Operational Creditor.
3. We have gone through the documents filed by the parties. It is seen that the Purchase Order is issued by the Corporate Debtor and the TDS Certificate (Form 26AS) also shows that the TDS deducted in the name of the corporate debtor which further shows that the services rendered/ purchase orders were issued by the Corporate Debtor and the Invoices

were also issued in the name of the corporate debtor. Keeping in view that the averments made, and in the absence of existence of a prior dispute on record, or any resistance by the Corporate Debtor, the prayer of the petitioner merits consideration. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

“(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 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 Securitisation and Reconstruction of Financial 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.

Further,

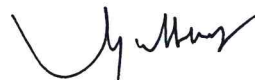


(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) 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. (4) The order of moratorium shall have effect from the date of such order 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 section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

4. The Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint Mr. Pankaj Kumar Singhal as the IRP. His Registration no. IBBI/IPA-002/IP-N00532/2017-18/11561, email: aprassociatesllp@gmail.com. We accordingly confirm his appointment as the IRP. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report.



5. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIRP costs.

6. Let this order be communicated to the Applicant, Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Adjudicating Authority to carry out the CIRP at the earliest, not exceeding one week from today.

7. Accordingly, IB-671/ND/2020 is admitted.

- Sd -

(DR. V.K.SUBBURAJ)
MEMBER (TECHNICAL)

- Sd -

(P.S.N PRASAD)
MEMBER (JUDICIAL)