
(2020) 12 NCLT CK 0021

National Company Law Tribunal New Delhi Bench

Case No: Company Petition No. IB-591/ND Of 2020

REDHEX It Solutions Pvt. Ltd.

APPELLANT

Vs

GREENLINE Builders Ltd.

RESPONDENT

Date of Decision: Dec. 16, 2020

Acts Referred:

- Insolvency And Bankruptcy (Application To Adjudicating Authority) Rules, 2016 - Rule 5, 6
- Insolvency And Bankruptcy Code, 2016 - Section 8, 9, 9(3)(c), 14, 15, 17, 18

Hon'ble Judges: Dr. Deepti Mukesh, J; Sumita Purkayastha, Member (Technical)

Bench: Division Bench

Advocate: Sameer Khan, Sonam, Kajal

Final Decision: Allowed

Judgement

Sumita Purkayastha, (Member Technical)

1. The Present Application is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity "Code") read with Rules 6 of the

Insolvency and Bankruptcy (Application to Adjudicating Authority), 2016 (for brevity "the Rules") by Redhex IT solutions Private Limited (for

brevity "Applicant") through Mr. Ashwani Kumar (Authorized by the Board of Directors vide resolution dated 03.01.2020) with a prayer to

initiate the Corporate Insolvency process against. Greenline Builders Limited (for brevity "Corporate Debtor").

2. The Applicant Redhex IT solutions Private Limited, claimed to be the Operational creditor, is a company incorporated under the Companies Act,

2013 having its registered office at Flat No.211 Second Floor, Meghdoot Bhawan, 94, Nehru Place New Delhi-110019.

3. The Respondent Greenline Builders Limited is a company incorporated on 25.04.2005 under the Companies Act, 1956 having its registered office at 106, Palco House T/10 Main Patel Nagar New Delhi 110008 and CIN U45201DL2005PLC135267 is engaged in the business to negotiate and/or enter into agreements/contracts with individual companies, corporations and such other organizations foreign or Indian, for obtaining or providing technical, financial or any other assistances for carrying out the main objects of the company and also for the purpose of activating research development of manufacturing projects on the basis of knowhow and to acquire necessary formulae and patent rights for furthering the main objects of the company.

4. The Applicant herein the Operational creditor had rendered the office management services to the Corporate Debtor for which sales invoice dated 05.05.2019 was issued for an amount of Rs. 8,43,700/- The Applicant on 05.01.2020 sent a Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy (Applications to Adjudicating Authority) Rules, 2016 for the unpaid operational debt to the Corporate Debtor. As submitted, after issuance of the Demand Notice and upto the date of filing of this application the Operational Creditor has neither received the payment nor notice of existence of any dispute.

5. The Applicant has therefore filed this petition as an Operational Creditor praying for initiation of Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate their claim of Rs. 8,43,700/-. The Applicant has annexed the bank statements in compliance of the provision of Section 9(3)(c)

6. Notice was issued to the Corporate Debtor vide order dated 28.02.2020 of the Adjudicating Authority and the reply was filed by the Corporate Debtor as on 16.03.2020. The Corporate debtor submitted that at the time of availing the services from the Operational Creditor, the Corporate Debtor had full intentions to pay for the services availed by it, however due to bad shape of economy and demonetization the business of the Corporate Debtor had suffered huge losses, therefore the Corporate Debtor was unable to pay the said amount.

7. The order was reserved on 26.11.2020, Ld counsel for the Corporate Debtor submitted that the Corporate Debtor has admitted its liability and inability to pay the amount hence, it clearly establishes the existence of debt. In the above circumstances this Tribunal initiates CIRP of the Respondent company.

A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

â€œ(a) the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the

Securitization 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 Respondent.

(2) The supply of essential goods or services to the Respondent 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.â€

10. The interim resolution professional (â€œIRPâ€), named in the list provided by the IBBI, is Mr. Damodar Prasad Gupta, IBBI/IPA-002/IP-

N00997/2020-2021/13223 mail id: sgsdel@gmail.com being confirmed by this Bench. 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 within 30 days before this Bench.

11. The Applicant shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be accounted for by the IRP

and shall be reimbursed to the Applicant to be recovered as costs of the CIRP.

12. A copy of the order shall be communicated to the Applicant and the Corporate Debtor by the Registry. The said order shall be communicated to

the IRP above named and intimate of the said appointment by the Registry. Applicant is also directed to provide a copy of the complete paper book

with copy of this order to the IRP. In addition, a copy of said order shall also be forwarded to IBBI for its records and to ROC for updating the

Master Data. ROC shall send compliance report to the Registrar, NCLT.