

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH -II, CHENNAI**

IBA/1099/2019

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. Regen Powertech Private Limited

M/s. Sarens Heavy Lift India Private Limited

---Applicant/Operational Creditor

V/s

M/s. Regen Powertech Private Limited

---Respondent/Corporate Debtor

Order delivered on: 13.12.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor : *Mr. Nithyaesh, Mr. Vaibhav
& Mr. Anirudh, Advocate*

For the Corporate Debtor : *Mr. S. Aravindan, Advocate
For Fox Mandal & Associates*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 09.12.2019

It is an Insolvency & Bankruptcy Application ("IBA") filed
under Section 9 of the Insolvency & Bankruptcy Code, 2016 ("the

Code”) by the Operational Creditor (Applicant) seeking initiation of Corporate Insolvency & Resolution Process against the Corporate Debtor on the ground the Corporate Debtor defaulted in paying an amount of ₹1,15,096,68.

2. On perusal of this application, it appears that the Corporate Debtor placed Work Order Nos.P2/4118000426 dated 01.02.2018, P2/4118000425 dated 01.02.2018, 01/4118000939 dated 26.07.2018, 01/4118000940 dated 26.07.2018 and 01/4118001001 dated 10.09.2018 upon the Operational Creditor for hiring Cranes (CC2500 Crane Package) at Govindhapuram Village, Ornakullam, Tamil Nadu. In pursuance thereof, the Operational Creditor rendered services and simultaneously raised invoices against the Corporate Debtor which are as follows :

Invoice No.	Date	Amount (Rs.)
4501/15/GST/0508	23.03.2018	33,04,000
4501/15/18/0140	06.06.2018	30,68,000
4501/15/180387	17.08.2018	1,29,800
4501/15/18/0386	17.08.2018	30,68,000
4501/15/18/0507	25.09.2018	22,42,000

3. Out of the aforementioned invoices, since the Corporate Debtor has not paid the dues against 5 invoices raised by the Operational Creditor, the Corporate Debtor and the Operational Creditor entered into Minutes of the Meeting on 04.12.2018 reflecting that the Corporate Debtor admitting the claim amount as ₹1,11,83,000 payable to the Operational Creditor and the Corporate Debtor has further confirmed that there are no counter claims on the dues payable to the Applicant because the Applicant has provided quality services to the fullest satisfaction of the Corporate Debtor. Soon after confirmation of the dues payable to the Applicant, since no payment has come from the Corporate Debtor, the Operational Creditor issued Section 8 notice on 23.05.2019 demanding payment of ₹1,02,03,800 against the unpaid invoices and interest thereon, because the Corporate Debtor has paid only ₹9,80,000.

4. For no payment has come from the Corporate Debtor and there being a reply dated 10.06.2019 from the Corporate Debtor admitting the claim amount, we hereby hold that the Operational

Creditor has proved existence of debt and default, therefore, we hereby admit this company application by appointing Mr. Ebenezar Inbaraj [Regn. No. IBBI/PA-001/IP/P00754/2017-2018/11286] as Interim Resolution Professional consented to act as IRP through his written consent, with the following directions:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

- (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) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (IV) That the order of moratorium shall have effect from **09.12.2019** 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 corporate debtor under section 33, as the case may be.
- (V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints Mr. Ebenezar Inbaraj, as Interim Resolution Professional, having Reg. No: [IBBI/PA-001/IP-P00754/2017-2018/11286], No. 397, Precision Plaza , No 23,Third Floor , Anna Salai ,Teynampet ,Chennai,Tamil Nadu ,600018, E-Mail: ebiadvocate@gmail.com, Mobile No: 9500005659 with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

5. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

6. Accordingly, this IBA/1099/2019 is hereby admitted.

-Sd-

(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-

(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/Arpan