

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT- III**

IB-883/ND/2020

U/S. 9 of the IBC, 2016 and Rule 6 of the
Insolvency and Bankruptcy (Application to
Adjudicating Authority), Rule, 2016

IN THE MATTER OF

M/s Colliers International (India) Property Services Pvt. Ltd.

Reg. Office at:-

1st Floor, "Pine Valley",

Embassy Golf Links Business Park,

Off Intermediate Ring Road,

Bengaluru-560071

...Applicant/Operational Creditor

Versus

M/s Logix City Developers Private Limited

Regd. Office:

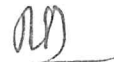
301-A, World Trade Tower,

Barakhamba Lane, Connaught Place,

New Delhi-110001

...Respondent/Corporate Debtor

Delivered on 22.03.2022



Coram:

Shri Bachu Venkat Balaram Das
Hon'ble Member (Judicial)

Shri Narender Kumar Bhola
Hon'ble Member (Technical)

Appearances:

Operational Creditor : Adv. S. Sriranga, Adv. Balaji Srinivasan, Adv. Garima Jain and Adv. Gayatri Mohite

Corporate Debtor: Adv. Vijay Kaundal

ORDER

Per: Narender Kumar Bhola, Member (Technical)

1. Under consideration is IB-833/ND/2020 filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred as 'IBC, 2016') R/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Operational Creditors, Colliers International (India) Property Services Private Limited seeking an Order to initiate Corporate Insolvency Resolution Process (hereinafter referred as 'CIRP') of the Corporate Debtor viz., M/s Logix City Developers Private Limited, declare moratorium and appoint Interim Resolution Professional (hereinafter referred as 'IRP').

2. The Operational Creditor/Petitioner has averred as follows: -

- a. It is the case of the Operational Creditor that on 05.07.2011, the parties entered into an agreement for providing construction/project management consultancy services for Bloom Zest Project at Noida ('Project') and appointed the operational creditor as its project manager. The said Agreement was extended and amended in respect of the duration of completing the Project, deploying personnel and fees of the Project manager. The Operational Creditor for the services provided by it under the Agreement raised various invoices from time to time. The said invoices were delivered and accepted by



the Corporate Debtor without raising any dispute in respect of the services provided by the Operational Creditor. Against some of the invoices raised, the Corporate Debtor being unable to pay its obligations allotted a residential unit bearing no. L-001, Tower L, Blossom Greens, Sector 142, Noida to the Operational Creditor.

- b. It is submitted that the Operational Creditor vide its Email dated 04.03.2020 requested the Corporate Debtor to pay the Operational Debt. However, the Corporate Debtor failed and neglected to pay the said Operational Debt. In light of the failure of payment, the Operational Creditor issued a Demand Notice in Form 3 on 10.04.2020 demanding repayment of Rs. 1,08,12,591 in unpaid invoices along with interest. The Form 3 notice was followed up by the Operational Creditor vide its Email dated 10.04.2020 requested the Corporate Debtor to confirm the outstanding amount of Rs. 1,08,12,591/- (Rupees One Crore Eight Lakh Twelve Thousand Five Hundred and Ninety One only) payable to it. In response to the email dated 10.04.2020, the Corporate Debtor vide its Email dated 11.04.2020 has acknowledged and confirmed that the Operational Debt is due and payable to the Operational Creditor. Also the Corporate Debtor in its Reply to Form 3 notice vide Email dated 22.04.2020 has admitted and acknowledged its liability to pay the said Operational Debt. Furthermore, the corporate debtor has not raised any dispute in respect of the amount, invoices raised and the services provided by the Operational Creditor. Therefore, the present petition.
3. The Corporate Debtor has also filed reply to the captioned petition and submitted that the amounts as claimed by the Operational Creditor under Demand Notice dated 10.04.2020 were duly acknowledged by the Corporate Debtor vide email dated 11.04.2020 and 23.04.2020 solely



due to the reason that the Corporate Debtor was confident that the above mentioned project shall be finished on time and the proceeds from the sales of the said project would then be utilized towards the payment of the claim amounts to the Operational Creditor. However, the Corporate Debtor, only after realizing all the prevalent real estate conditions caused due to COVID-19 pandemic, failed in paying the amounts as claimed by the Operational Creditor under the Demand Notice. It is stated that the delay in payment of installment amounts was caused due to the fact that the construction of the said project was stopped due to the various EPCAJ NGT Orders in the month of October 2019 and thereafter unprecedented conditions created due to COVID-19 pandemic. Further, it is undisputable fact that the Real Estate business is going through slump whereby all the builders and promoters of the real estate projects are experiencing heavy economic losses.

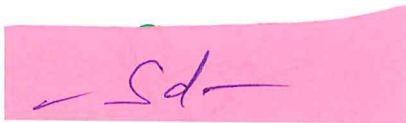
4. We have perused the Pleadings and arguments advanced by both the parties. It is clear from the pleadings that the corporate debtor has admitted its liability towards the operational creditor in Demand notice as well as in reply. However, it failed to discharge its liability as the admitted amount remains unpaid as on date. It is worthwhile to mention here that this authority has to only satisfy itself regarding default in payment by the corporate debtor towards the operational creditor and there is no pre-existing dispute, the moment above conditions are fulfilled, this Adjudicating Authority has to admit the section 9 petition and in the present petition both the conditions are fulfilled as discussed above. Therefore, the Petition deserves to be admitted. Hence, this authority is inclined to initiate the CIR Process of Corporate Debtor. Accordingly, the captioned petition is **admitted**.

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5. The Applicant has also proposed the Insolvency Resolution Professional. This Tribunal, hereby, appoints Insolvency Professional namely, **Mr. Yogesh Kumar Gupta** having Registration Number IBBI/IPA-003/IP-N00078/2017-18/10701 (Email ID-ykgupta@yahoo.co.in) as Interim Resolution Professional as proposed by the Operational Creditor. The IRP is directed to take charge of the respondent corporate debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IBC, 2016, within three days from the date of this order received, and call for submissions of claim in the manner as prescribed.
6. The moratorium is declared which shall have effect from this Order till the completion of CIRP, for the purposes referred to in section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -
- 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 (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 respondent.



7. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended or interrupted during moratorium period. The provisions of sub-section (1) of section 14 of IBC, 2016 shall not apply to such transactions, as notified by the central government.
8. The IRP shall comply with the provisions of sections 13(2), 15, 17 and 18 of the Code. The directors of the Corporate Debtor, its Promoters or any person associated with the management of the corporate debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 for discharging his functions under section 20 of the IBC, 2016.
9. The operational Creditor is directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the corporate debtor's assets etc., and make compliance with this order as per provisions of IBC, 2016.
10. The Registry is directed to serve a copy of this order on Registrar of Companies, Delhi & Haryana for appropriately updating the status of Corporate Debtor on M/o Corporate Affairs website for information of general public. The RoC as aforesaid shall then file a compliance report in this regard with this Adjudicating Authority.
11. The order is pronounced by this Adjudicating Authority in virtual Hearing



(Bachu Venkat Balaram Das)
Member (Judicial)



(Narender Kumar Bhola)
Member (Technical)