IN THE NATIONAL COMPANY LAW TRIBUNAL DIVISION BENCH (COURT-I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **18.12.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)

HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

.....

APPLICATION NUMBER :

PETITION NUMBER : CP(IB)/211(CHE)2023

NAME OF THE PETITIONER(S) : Gee Vee Human Solutions India Pvt Ltd

NAME OF THE RESPONDENTS : Sri Marg Human Resources Pvt Ltd

UNDER SECTION : Sec 9 Rule 6 of IBC, 2016

ORDER

Present: None for the Petitioner.

None for the Respondent.

Vide separate order pronounced in Open Court, the petition is admitted. Shri. Nikhil Sachdeva is appointed as IRP.

Sd/- Sd/-

(VENKATARAMAN SUBRAMANIAM)

MEMBER (TECHNICAL)

(SANJIV JAIN)
MEMBER (JUDICIAL)

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IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH - I, CHENNAI

CP/IB/211(CHE)/2023

(filed under Section 9 of the Insolvency & Bankruptcy Code, 2016)

In the matter of Sri Marg Human Resources Private Limited

Gee Vee Human Solutions India Private Limited Represented by its Director Mr. Panner Selvam

Plot No.43, Rukmani Nagar, 2nd Street, Poonamallee, Chennai – 600 056

... Applicant/Operational Creditor

-VS-

Sri Marg Human Resources Private Limited

No.9, Muthu Nagar, Poonamallee, Chennai – 600 056

... Respondent / Corporate Debtor

Order Pronounced on 18th December, 2023

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL) VENKATARAMAN SUBRAMANIAN, MEMBER (TECHNICAL)

For Petitioner : K.Senguttuvan, Advocate

For Respondent : Ex-Parte

ORDER

(Hearing conducted through VC)

This application has been filed by the Operational Creditor viz. *Gee Vee Human Solutions India Private Limited* against the Corporate Debtor viz. *Sri Marg Human Resources Private Limited* under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC', 2016) seeking to initiate Corporate Insolvency Resolution Process as against the Corporate Debtor.

- 2. Part I of the Application provides that the Operational Creditor is a Private Limited Company. Part II of the Application sets out the details of the Corporate Debtor stating that the Corporate Debtor was incorporated on 18.10.2010 and the Registered office address of the Corporate Debtor is situated at No.9, Muthu Nagar, Poonamallee, Chennai 600 056.
- 3. In Part III of the Application, the Operational Creditor has suggested the name of one Mr. Nikhil Sachdeva as the 'Insolvency Resolution Professional'.

- 4. In Part IV of the Application, the Total amount of debt is stated as Rs.1,61,063,60 (one crore sixty-one lakh sixty thousand three hundred sixty rupees) on account of principal being Rs 13589485/- and Rs.25,16,875/- on account of interest @ 8% per annum based on the SBI Prime lending rate) on and from the date of default till 02.09.2023.
- 5. It is stated that the Operational Creditor is engaged in the business of supply of manpower services. The usual course of business of the Operational Creditor is to hire and place diverse personnel in employment as per the requirement of its customers.
- 6. It is stated that after several negotiations and deliberations between the parties, the parties entered into an Agreement on 02.02.2021. The main features of the Agreement are as follows
 - a) The Operational Creditor would provide services to the Corporate Debtor, by supplying the manpower service requirement of the Corporate Debtor.
 - b) After receipt of the invoices from the Operational Creditor, it was incumbent on the part of the Corporate Debtor to make payment towards the said invoices within 15 days.

c) In case, there is any delay on the part of the corporate debtor to make payment in terms of the invoices made over by the Operational Creditor, the Corporate Debtor, owing to the commercial nature of the transaction, was required to make payment of interest @ 8% p.a.

7. It is stated that the Corporate Debtor had placed orders with the Operational Creditor through personal meetings. Pursuant thereto, the Operational Creditor provided the Corporate Debtor with the services by supplying manpower as per the terms and conditions agreed by and between the parties. There were no objections or complaints whatsoever raised by the Corporate Debtor neither at the time of providing the services nor after that.

8. It is stated that the Operational Creditor effectively fulfilled the requirement of the Corporate Debtor. There was always timely supply as and when required by the Corporate Debtor. Against these services several invoices were also raised. The details of the said invoices are as follows -

Invoice No.	Invoice Date	Amount (in Rs.)
0017	27.03.2021	1860474
0022	24.04.2021	9742474
0027	27.05.2021	1986537

- 9. It is stated that the above-mentioned invoices were duly raised and served on the Corporate Debtor personally and the Corporate Debtor had also accepted all the said invoices without raising any objection whatsoever. Copies of the invoices which remained due and outstanding are annexed "A" of the application typeset.
- 10. It is stated that a sum of Rs.1,35,89,485/-on account of principal along with a sum of Rs 25,16,875/- on account of interest @ 8% p.a. is due and payable to the Operational Creditor by the Corporate Debtor. However, the Corporate Debtor has failed to pay the same.
- 11. It is stated that the Operational Creditor had reminded and called upon the Corporate Debtor to pay the outstanding dues on several occasions. Despite such repeated reminders and notices, the corporate debtor failed and/or neglected to make payments of the outstanding

dues. Therefore, the operational creditor stopped providing it services after providing the services for three months due to the negligent behaviour of the Corporate Debtor as well as the tough market competition in terms of running the business.

- 12. It is stated that the indebtedness of the Corporate Debtor for a sum of Rs. 1,61,06,360/- is evident. Apart from the principal sum of Rs 1,35,89,485/- the Operational Creditor is also entitled to a further sum of Rs. 25,16,875/- on account of interest 8% per annum as per the agreement, from the date of default to 02.09.2023. A statement of computation of the amount in default is annexed as letter "B" of the application typeset.
- 13. It is stated that the debt fell after due 15 days from the date on which the invoices were raised on the Corporate Debtor. The details of the same are as follows:

Invoice No.	Invoice Date	Date of Default
0017	27.03.2021	11-04-2021
0022	24.04.2021	09-05-2021
0027	27.15.2021	11-06-2021

14. It is stated that since no payment was forthcoming from the Corporate Debtor, the Operational Creditor issued a Demand Notice under Section 8 of IBC, 2016 to the Corporate Debtor on 04.09.2023, which was delivered to the Corporate Debtor on 05.09.2023. The Operational Creditor has also filed an Affidavit as mandated under Section 9(3)(b) of IBC, 2016 stating that the Corporate Debtor after the receipt of the Demand Notice neither paid any amount nor gave any reply notice disputing unpaid operational debt to the applicant.

15. The Operational Creditor has filed Affidavit of service vide S.R.No.2626 dated 29.05.2024.

16. Vide order dated 11.07.2024, this Tribunal recorded as follows:

As seen from the Affidavit of service, the Respondent has been served.

Repeated calls made, neither the Respondent nor the Counsel for

Respondent is present.

Respondent is set as ex-parte.

FINDINGS OF THIS TRIBUNAL:

17. Heard the submissions of the applicant and perused the documents placed on record.

18. It is seen from the records that the corporate debtor neither replied to the demand notice nor raised any dispute. Therefore, there is no pre-existing disputes between the parties.

19. It is manifestly clear from the invoices at page Nos.22- 24 of the application, there is a debt of Rs.1,35,89,485/- on the part of the Corporate Debtor.

20. Further, from the record of default attached by the Financial Creditor vide S.R.No.1003 dated 26.02.2024 it is evident that there is an existence of 'default' committed by the Corporate Debtor

10-01-2024 15:18:56	
Default Submission	
1	
M/s GEE VEE HUMAN SOLUTIONS INDIA PVT LTD	
M/s SHRIMARG HUMAN RESOURCES PVT LTD	
16106360.00	
DEEMED TO BE AUTHENTICATED	
26-01-2024 00:06:10	

21. Thus, the Operational Creditor has proved that there is an 'operational debt' and 'default' on the part of the Corporate Debtor.

22. Further, the sum which is in default is also more than Rs. 1 crore and the default in present case has occurred much after the 10A period, so the Corporate Debtor cannot take shelter under Section 10A of IBC 2016.

23. Taking into consideration the facts and circumstances of the case as well as the position of Law, we are of the view that the application, as filed by the Operational Creditor, is required to be admitted under Section 9(5) of the IBC, 2016. We order accordingly. In the present case, the Operational Creditor has named the Insolvency Resolution Professional in Part – III of the Application and accordingly this Mr. Nikhil Sachdeva with Registration No: Tribunal appoints IBBI/IPA-001/IP-P-02743/2022-2023/14184 (email id: nikhilsachdeva.ca@gmail.com) who is having Authorization for Assignment till 31.12.2025 as the "Interim Resolution Professional" (IRP) in respect of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Code, more specifically in terms of Section 15,17,18 of the Code and file the report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

- 24. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:
 - 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.

Explanation.-For the purposes of this sub-section, 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 or a similar grant or right during moratorium period;

- 25. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:
 - (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.
 - (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and mange the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, 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.
 - (3) The provisions of sub-section (1) shall not apply to

- (a) 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;
- (b) a surety in a contract of guarantee to a corporate debtor.
- 26. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:
 - (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.
- 27. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/-** (*Rupees Two Lakhs only*) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6

of Insolvency and Bankruptcy Board of India (Insolvency Resolution

Process for Corporate Persons) Regulations, 2016.

28. Based on the above terms, the Application stands admitted in

terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to

effect as of this date. A copy of the Order shall be communicated to the

Operational Creditor as well as to the Corporate Debtor above named

by the Registry. In addition, a copy of the Order shall also be forwarded

to IBBI for its records. Further, the Interim Resolution Professional

above named be also furnished with copy of this Order forthwith by the

Registry, who will also communicate the initiation of the CIRP in

relation to the Corporate Debtor to the Registrar of Companies

concerned.

-Sd-

VENKATARAMAN SUBRAMANIAM MEMBER (TECHNICAL) **SANJIV JAIN** MEMBER (JUDICIAL)

Sriram Ananth. V