

SUNDARESH BHAT
Resolution Professional, EMCO Limited

Insolvency Professional Registration no. IBBI/IPA-001/IP-P00077/2017-18/10162
IBBI Registered Email: sundareshbhat@bdo.in
IBBI Registered Address: Level 9, The Ruby, North West Wing, Senapati Bapat Road,
Dadar (W), Mumbai, 400028, India
Phone: +919920977977

12th November 2019

To,
BSE Limited
Phiroze Jeejeebhoy Towers
Dalal Street
Mumbai- 400001
Phones : 91-22-22721233/4, 91-22-66545695

Kind Attn: Officer-in-Charge

Sub: Intimation for appointment of Resolution Professional for EMCO Limited (under Corporate Insolvency Resolution Process)

Ref: Before the Hon'ble National Company Law Tribunal, Mumbai
MA 3268/2019 in CP (IB) 2849(MB)/2018

In the matter of:

Jet Roadlines (India) Pvt. Ltd. ..Applicant/Operation Creditor

Versus

EMCO Limited ..Corporate Debtor

Respected Sir/Madam,

1. The Applicant in the captioned matter, Jet Roadlines (India) Pvt. Ltd., in its capacity as the operational creditor of EMCO Limited ('EMCOL/Corporate Debtor'), filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 before the Hon'ble Adjudicating Authority, i.e. National Company Law Tribunal, at Mumbai ('Hon'ble NCLT Mumbai') for initiation of Corporate Insolvency Resolution Process ('CIRP') for the Corporate Debtor under the provisions of the Insolvency and Bankruptcy Code 2016 ('IBC').
2. The Hon'ble NCLT Mumbai vide its order dated 22 July 2019 ('CIRP Commencement Order') (written copy made ready and communicated on 16 August 2019), admitted EMCOL into CIRP with effect the date CIRP Commencement Order and *inter alia* appointed, Mr. Kedarram Ramratan Laddha having registration number IBBI/IPA-001/IP-P00586/2017-18/11115 as the Interim Resolution Professional ("IRP") of the Corporate Debtor to conduct the CIRP and to exercise all powers and subject and carry out all duties as envisaged under the provisions of the IBC. A copy of CIRP Commencement Order is

SUNDARESH BHAT
Resolution Professional, EMCOL Limited

Insolvency Professional Registration no. IBBI/IPA-001/IP-P00077/2017-18/10162
IBBI Registered Email: sundareshbhat@bdo.in
IBBI Registered Address: Level 9, The Ruby, North West Wing, Senapati Bapat Road,
Dadar (W), Mumbai, 400028, India
Phone: +919920977977

enclosed herewith as "Annexure-A".

3. **BE PLEASED TO TAKE ON FILE AND RECORD** that the Committee of Creditors constituted by the IRP, at its first meeting convened on 16 September 2019, resolved with requisite majority to replace the IRP with Mr. Sundaresh Bhat, Insolvency Professional having IBBI registration no. IBBI/IPA-001/IP-P00077/2017-18/10162 as the Resolution Professional of EMCOL. In accordance with Section 22(b) of IBC, an application for confirmation of Mr. Sundaresh Bhat as the RP of EMCOL was filed with the Hon'ble NCLT Mumbai. The Hon'ble NCLT Mumbai vide its order dated 14 October 2019 (written order made available on 11 November 2019) ('**RP Confirmation Order**'), confirmed the appointment of Mr. Sundaresh Bhat as the Resolution Professional of EMCOL. A copy of the RP Confirmation Order is enclosed herewith as "Annexure-B".
4. As per Section 17 of the IBC, the powers of the Board of Directors of EMCOL stand suspended and such powers shall be vested with the undersigned, Mr. Sundaresh Bhat the appointed RP. Your kind attention is drawn to Section 17 of the IBC, which *inter alia* provides that once the interim resolution professional/resolution professional has been appointed:
 - (a) the management of affairs of the Corporate Debtor vests in the RP;
 - (b) the powers of the Board of Directors of the Corporate Debtor are suspended and shall be exercised by the RP;
 - (c) the officers and managers of the Corporate Debtor shall report to the RP and provide access to documents and records of the Corporate Debtor, as may be required by the RP from time to time; and
 - (d) for effectively discharging its responsibilities, the RP is empowered to do all acts and execute documents in the name of the Corporate Debtor.
5. Please take further note that the CIRP Commencement Order of the Hon'ble NCLT Mumbai has imposed a moratorium till the completion of the CIRP, in accordance with Section 14 of the IBC, on the following:
 - (i) 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;
 - (ii) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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;
 - (iv) the recovery of any property by an owner or lessor where such property is occupied by

SUNDARESH BHAT
Resolution Professional, EMCO Limited

Insolvency Professional Registration no. IBBI/IPA-001/IP-P00077/2017-18/10162
IBBI Registered Email: sundareshbhat@bdo.in
IBBI Registered Address: Level 9, The Ruby, North West Wing, Senapati Bapat Road,
Dadar (W), Mumbai, 400028, India
Phone: +919920977977

or in the possession of the Corporate Debtor.

6. The instant intimation with respect to intimation of commencement of CIRP, appointment of Resolution Professional, suspension of the powers of the Board of Directors of the Corporate Debtor and declaration of moratorium is for your information and records.
7. You are kindly requested to acknowledge receipt thereof.

Thanking you.

Yours faithfully,



SUNDARESH BHAT

Resolution Professional in the matter of CIRP of EMCO Limited

Communications Email Address: RPEMCO@bdo.in ; sundareshbhat@bdo.in

IBBI Registration no. IBBI/IPA-001/IP-P00077/2017-18/10162

IBBI Registered Email: sundareshbhat@bdo.in

IBBI Registered Address: BDO Restructuring Advisory LLP, Level 9, The Ruby, North West Wing, Senapati Bapat Road, Dadar (W), Mumbai 400028, INDIA

Insolvency Professional Entity: BDO Restructuring Advisory LLP, Level 9, The Ruby, North West Wing, Senapati Bapat Road, Dadar (W), Mumbai 400028, INDIA

Enclosed as above:

- Annexure A: Copy of order dated 22nd July, 2019 issued by the Hon'ble NCLT, Mumbai, and copy made ready and communicated on 16th August, 2019.
- Annexure B: Copy of order dated 14th October, 2019 issued by the Hon'ble NCLT, Mumbai, and copy made ready and communicated on 11th November 2019.

Annexure - A

In the National Company Law Tribunal
Mumbai Bench.

No. C.P.(IB)-2849/(MB)/2018

Under Section 9 of Insolvency & Bankruptcy Code, 2016

In the matter of

Jet Roadlines (India) Pvt. Ltd. : Petitioner/ Operational Creditor
V/s
EMCO Ltd. : Respondent/ Corporate Debtor

Heard on: 09.07.2019

Order delivered on: 22.07.2019

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

For the Petitioner(s) : 1. Mr. Vaibhav Mohnot.
For the Respondent(s) : 1. Mr. Yakshay Chheda Devanshi,
i/b. Parinam Law Associates.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. A Petition u/s.9 has been submitted in Form No.5 on 27.07.2018 by the Operational Creditor M/s. Jet Roadlines (India) Pvt. Ltd., against the Corporate Debtor M/s. EMCO Ltd., Jalgaon-425003 for an Operational Debt amount of ₹62,20,321/- Plus Interest @ 18% thereon of ₹15,69,492/- totalling ₹77,89,813/-.

2. Brief particulars of the case:- The Petitioner/ Operational Creditor is stated to be involved in the business of Supporting and auxiliary transport activities whereas the Corporate Debtor is involved in manufacturing of electric motors, generators and transformers. Petitioner submitted that services were provided to the Corporate Debtor for which Invoices with Delivery Challans were issued. A computation of outstanding Debt amount, placed on record, is reproduced below:-

2.1. According to the Petitioner, the Debt amount fell due on 22.11.2016 till 31.03.2018. The Petitioner submitted that it had reminded the Corporate Debtor to pay the outstanding amount but the same had not been paid so far. As a consequence, the Operational Creditor issued Demand Notice in Form No.3 on 14.06.2018 to the Corporate Debtor.

2.2. The Petitioner submitted that the Corporate Debtor replied to the Demand Notice vide its Letter dated 22.06.2018 as under:-

"We state that the information and calculations provided by you and mentioned in the notice are not correct as the amount claimed under notice is not tallying with our books of account. Hence we are not liable to pay the amount claimed under the said notice."

2.3. The Petitioner, therefore, vehemently argued that in the reply there is no elucidation regarding the outstanding dues and stated that it clearly reflected the blatant attempt by the Corporate Debtor that they are not ready to pay the said outstanding dues.

2.4. Copy of the Statement of Bank Account of HDFC Bank Limited for the period from 13.06.2018 to 30.06.2018 in respect of the Operational Creditor is on record. General Ledger Account for the period from 01/04/2015 to 31/03/2019 is also placed on record.

FINDINGS

3. Considering the totality of the facts and circumstances of the case discussed *supra*, I am of the opinion that the default as defined u/s. 3(12) of The Code is established. Demand Notice has been issued to the Respondent Debtor. The Respondent Debtor, in its reply dated 22.06.2018 *supra* has only stated that "*the information and calculations provided by you and mentioned in the notice are not correct as the amount claimed under notice is not tallying with our books of account*". However, the Corporate Debtor has not taken any serious effort to elucidate/ reconcile the differences of the impugned alleged claim of the Corporate Debtor. The Corporate Debtor also had not provided any information on whether any of the Invoices claimed to be outstanding by the Operational Creditor, had already been paid or "disputed".

This case was first listed on 19.11.2018, 09.01.2019, 06.03.2019, 02.05.2019 and lastly, on 09.07.2019. Even after a lapse of considerable time after First listing of this Petition, no effort to settle the outstanding amount is made by the Corporate Debtor.

4. As a consequence, keeping the admitted facts in mind that, the Operational Creditor had not received the outstanding Debt from the Corporate Debtor and that the formalities as prescribed under The Code have been completed by the Petitioner/ Operational Creditor, it is my conscientious view that this Petition deserves "Admission".

5. The Operational Creditor has proposed the name of the Interim Resolution Professional **Mr. Kedar Ramratan Laddha**, Registration No. IBBI/IPA-001/IP-P00586/2017-2018/11115, Address: 6/5, Sahayog Appartment, Keshavnagar, Subhashbridge, RTO Circle, Ahmedabad Gujarat, Mobile No. +91-9737533000, Email : kladdha@kpsjca.com. The IRP has submitted his consent in Form No.2 and also certified that no Disciplinary Proceedings are pending against him. The proposed IRP is hereby appointed to initiate Corporate Insolvency Resolution Process against the Corporate Debtor.

6. Upon Admission of the Application and Declaration of "**Moratorium**" the Insolvency Process such as Public Announcement etc. shall be made immediately as prescribed under section 13 read with section 15 of The Code. He shall perform the duties as an Interim Resolution professional as defined under section 18 of The Code and inform the progress of the Insolvency Process and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

7. Having admitted the Petition/ Application the provisions of "**Moratorium**" as prescribed u/s. 14 of The Code shall come into operation. As a result, institution of any suit or parallel Proceedings before any Court of Law are prohibited. The assets of the Debtor must not be liquidated until the Insolvency Process is completed. However, the supply of essential goods or services to the Corporate Debtor shall not be

suspended or interrupted during "**Moratorium** Period". This direction shall have effect from the date of this Order till the completion of Insolvency Resolution process.

8. Accordingly, this **CP (IB)-2849/(MB)/2018** stood Admitted.

9. The Corporate Insolvency Resolution Process shall commence from the date of this order.

Date : 22.07.2019.
ug

Sd/-
(M.K. SHRAWAT)
Member (Judicial)

"Annexure - B"

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

(23) MA 3268/2019 IN C.P.(IB)-2849(MB)/2018

CORAM:

SHRI M.K. SHRAWAT
MEMBER (J)

SHRI CHANDRA BHAN SINGH
Member (Technical)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON 14.10.2019

NAME OF THE PARTIES: Jet Road Lines (India) Pvt. Ltd.
V/s
EMCO Ltd.

SECTION: 9 OF THE INSOLVENCY & BANKRUPTCY CODE .

ORDER

1. The Learned Representative for Petitioner is present. None for Respondent.
2. MA-3268/2019 in C.P. (IB)-2849/18 request for replacement of the present IRP Mr. Kedarram Ramratan Laddha (Registration No. IBBI/IPA-001/IP-P00586/2017-18/11115) replaced by another Resolution Professional Mr. Sundaresh Bhat (Registration No. IBBI/IPA-001/IP-P00077/2017-18/10162).
3. The written consent of the proposed Resolution Professional have been given in Report Form AA with the bench.
4. Direction to new RP to give a progress Report of the CIRP Proceedings on the next date of hearing.
4. Matter is adjourned to **21.11.2019**. MA 3268/2019 is allowed. **Disposed of.**

To be consigned on records.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
M.K. SHRAWAT
Member (Judicial)

14.10.2019
Sushil



Certified True Copy
Copy Issued "free of cost"
on 21/11/19

Assistant Registrar
National Company Law Tribunal, Mumbai Bench