

Date: 17<sup>th</sup> April, 2017

**BSE Limited**

1st Floor, New Trading Ring,  
Rotunda Building, P.J. Towers,  
Dalal Street, Fort, Mumbai-400001

**National Stock Exchange of India Limited**

Exchange Plaza, 5<sup>th</sup> Floor,  
Bandra Kurla Complex,  
Bandra (E), Mumbai-400051

**Sub: Intimation of Initiation of Corporate Insolvency Resolution Process (CIRP) and appointment of Interim Resolution Professional (IRP)-Era Infra Engineering Limited**

Dear Sir/Madam,

This is to inform you that CIRP has been initiated in respect of Era Infra Engineering Limited" the company") under the provisions of Insolvency and Bankruptcy Code, 2016 (IBC) by an order of National Company Law Tribunal with effect from 12 April, 2017.

As per section 17 of the IBC, 2016, the powers of the Board of Directors stands suspended, and such powers shall be vested with me, CA Vivek Goyal (IP Registration no. IBBI/PA-001/IP-00089/2016-17/1117) appointed as the Interim Resolution Professional (IRP) with respect to the Company.

It may further be noted that as per section 14 of IBC, 2016 the said NCLT order has declared a moratorium prohibiting all of the following, 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 Securitisation 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 corporate debtor.

This is for your information and record. The Company will keep the statutory authorities posted on further developments in this regard.

Please acknowledge receipt of this document.

Thanking You,

For Era Infra Engineering Limited

**CA Vivek Goyal**

**Interim Resolution Professional**

(IP Registration No.: IBBI/PA-001/IP-00089/2016-17/1117)

Era Infra Engineering Limited

(a company under corporate insolvency resolution process by NCLT Principal Bench, New Delhi, order dated April 12, 2017)

**Enclosed:**

1. A copy of NCLT Order, dated 12<sup>th</sup> April, 2017

**Era Infra Engineering Limited**

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL BENCH**

**NEW DELHI**

**Present: CHIEF JUSTICE (Retd.) SHRI M.M. KUMAR, HON'BLE PRESIDENT**

**& SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)**

**Insolvency Petition No. 26 (ND) of 2017**

**In the Matter of :**

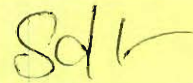
**Prideco Commercial Projects Pvt. Ltd.**

**Vs.**

**M/s. Era Infra Engineering Ltd.**

This petition was filed on 01.03.2017. However, on the request made by the counsel for the petitioner the matter was posted for hearing on 20.03.2017. The issue concerning limitation period was not clearly stated and accordingly objection was raised. The hearing was adjourned to 23.03.2017. Therefore, the period of 14 days commenced on 23.03.2017. Then submissions were made on 23.03.2017 when it was reserved for order. The next two days namely 25.03.2017 & 26.03.2017 being Saturday and Sunday have to be excluded for the purposes of counting the period of 14 days. Likewise, the period from 01.04.2017 to 09.04.2017 would also stand excluded being the vacation period in the Principal Bench. Therefore, the

order is being pronounced today i.e. 12.04.2017 within the period of 14 days as per the provisions of Section 9 of the IBC even if the 10 days extended period under Section 64 of the IBC is not included.

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**(CHIEF JUSTICE M.M. KUMAR)**  
**PRESIDENT**

A yellow rectangular box containing a handwritten signature in black ink, which appears to be 'Sd/-'.

**(R.VARADHARAJAN)**  
**MEMBER (JUDICIAL)**

**Date:** April 12, 2017

(Vineet)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL BENCH**

**NEW DELHI**

**Present: CHIEF JUSTICE (Retd.) SHRI M.M. KUMAR, HON'BLE PRESIDENT**

**& SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)**

**Insolvency Petition No. 26 (ND) of 2017**

**In the Matter of :**

Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor.

**In the Matter of :**

1. **Prideco Commercial Projects Pvt. Ltd.** .....**APPLICANT COMPANY/  
Through its Director, OPERATIONAL CREDITOR  
Having its registered office at:  
A-551, Sector-19, Noida (U.P.)**

**Vs.**

2. **M/s. Era Infra Engineering Ltd.** .....**RESPONDENT/  
Through its Managing Director, CORPORATE DEBTOR  
1107, Indraprakash Building  
21, Barakhamba Road,  
New Delhi - 110001**

**Counsel for the petitioner:**

**Shri Santosh Kumar, Advocate**

**Shri Rajiv Ranjan Mishra, Advocate**

**Shri Anant A. Pavgi, Advocate**

## ORDER

1. The petitioner, M/s Prideco Commercial Projects Private Limited have approached this Tribunal under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity the 'Code'). The prayer made by the petitioner is to trigger insolvency resolution process against the respondent claiming that the petitioner is an 'Operational Creditor' within the meaning of Section 5 (20) and the respondent owes operational debt to the petitioner within the meaning of Section 5 (21) of the Code. It has also been claimed that the respondent is a defaulter in making the payment of operational debt and the claim is within the period of limitation.

2. Brief facts necessary for disposal of the instant petition may first be noticed. The 'Corporate Debtor' awarded a contract to the 'Operational Creditor'-petitioner by placing seven work orders to it. The detail of the work orders is as follows:-

1. EILE-EPC/2009-10/193, Dt. 17.03.2009 value Rs. 4,06,50,525/-
2. EILE-EPC/2009-10/215A, Dt. 01.04.2009 value Rs. 1,20,000/-
3. EILE-EPC/2009-10/232A, Dt. 20.04.2009 value Rs. 7,84,000/-
4. EILE-EPC/2009-10/304, Dt. 01.06.2009 value Rs. 3,66,240/-
5. EILE-EPC/2009-10/362, Dt. 03.06.2009 value Rs. 1,19,562/-

6. EILE-EPC/2009-10/436, Dt. 01.09.2009 value Rs. 1,45,750/-
7. EILE-EPC/2010-11, Dt. 26.10.2010 value Rs. 61,60,000/- for construction, transportation of WMM/GSB work from Km. 29+650 to Km. 93 +140 of NH-10 from Delhi-Haryana border to Rohtak Section. The total contract value was Rs. 4,83,47,077/- (Rupees Four Crore Eighty Three Lakhs Forty Seven Thousand Seventy Seven Only).

3. It is the case of the 'Operational Creditor'-petitioner that it has successfully completed the awarded project to the complete satisfaction of the 'Corporate Debtor'. The 'Corporate Debtor' in order to discharge its liability issued seven post-dated cheques for a sum of Rs. 5,23,016/- each as a full and final settlement. Except one all other cheques were dishonoured on presentation. The details of the same has been provided by the 'Operational Creditor' which is explicit from the following table:-

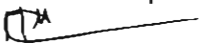
S.No.	Cheque No.	Drawn on	Cheque dt.	Amount
1.	5586	Union Bank of India, Greater Noida Branch	15.02.2014	5,23,016/-

2.	3866	-Do-	15.03.2014	5,23,016/-
3.	4080	-Do-	15.04.2014	5,23,016/-
4.	5344	-Do-	15.05.2014	5,23,016/-
5.	5453	-Do-	15.06.2014	5,23,016/-
6.	5502	-Do-	15.07.2014	5,23,016/-
7.	5524	-Do-	15.08.2014	5,23,016/-

4. The 'Operational Creditor'-petitioner has claimed that it had sent several e-mails to the Corporate Debtor on 03.03.2015, 28.05.2015, 30.10.2015, 26.03.2016, 09.05.2016 & 03.06.2016. None of the e-mails could evoke any positive response towards the payment of the outstanding amount. It shows that the Corporate Debtor has committed default. Thereafter the Operational Creditor-petitioner served a legal notice on the Corporate Debtor on 10.01.2017 under Section 271 Companies Act, 2013 demanding a sum of Rs. 68,23,328/- (Rupees Sixty Eight Lakhs Twenty Three Thousand Three Hundred and Twenty Eight Only) along with interest thereon @ 24% per annum. The Corporate Debtor has maintained blissful silence by not responding to the legal notice. Therefore, it has been claimed that there is a default.

5. In support of the petition the master data of Corporate Debtor has also been placed on record which reveals that it is (M/s Era Infra Engineering Ltd.) incorporated on 03.09.1990. It has authorized share capital of Rs. 75,00,00,000/- (Rupees Seventy Five Crore Only) divided into Rs. 35,00,00,000/- (Rupees Thirty Five Crore Only) equity shares of Rs. 2 (Rupees Two Only) each. The paid-up capital of the respondent of the Corporate Debtor is Rs. 66,31,99,000/- divided into equity shares of Rs. 2 (Rupees Two Only) each. The Directors of 'Corporate Debtor' company are Mr. Hem Singh Bharana, Mr. Ratanlal, Mr. Mast Ram, Mr. Gaurav Rajoria and Mr. Dilip Kumar Sinha. The name of interim resolution professional has not been proposed. A copy each of the work order issued by the Corporate Debtor to the 'Operational Creditor'-petitioner and the dishonoured cheques issued by it, e-mails sent to the Corporate Debtor and the statement of accounts maintained by the Operational Creditor-petitioner have also been placed on record. A copy of the Board resolution showing authorization to one Mr. Sandeep Gupta, Director of the Company to file the instant petition has also been filed. The petition has been accordingly presented by the authorized Director, Mr. Sandeep

Gupta.





6. We have heard learned counsel at some length. On our query as to how the claim is covered by the period of limitation as provided by the Limitation Act, 1963 learned counsel took time on 20.03.2017 and then made submission on 23.03.2017. According to the learned counsel once the post-dated cheques were issued with the dates of 15.03.2014, 15.04.2014, 15.05.2014, 15.06.2014, 15.07.2014 & 15.08.2014 then the claim cannot be considered as barred by limitation. The cheques were dishonoured on presentation although the first cheque with the date 15.02.2014 was replaced and payment was received. According to the learned counsel the issuance of post-dated cheques and its non-payment would give a fresh lease of limitation period. In support of his submission learned counsel has placed reliance on a Division Bench judgment of the Kerela High Court rendered in the case of Ramakrishnan v. Parthasaradhy, 2003 (2) KLT 613. Learned counsel has also placed reliance on the observation made para 5 of the judgment rendered by a learned Single Judge in the case of Gorilal Baldeodas v. Ramjeelal Bhuralal, AIR 1961 Madhya Pradesh 346. Likewise, reliance has also been placed on Section 19 of the Limitation Act to argue that issuance of cheques by the Corporate Debtor is part payment of principal amount and it extends the

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period of limitation by further three years from the date of such payment.

In that regard, reliance has also been placed on a judgment of Delhi High Court rendered in the case of Rajesh Kumari v. Prem Chand Jain, AIR 1998 Delhi 80.

7. Having heard the learned counsel and on perusal of the record with his able assistance the question which arises is as to whether the Operational Creditor fulfils all the requirements of Section 9 (3) of the Code. The aforesaid provision impose obligations on an Operational Creditor like the petitioner to furnish the following documents along with the petition:-

- (a) a copy of the invoice demanding payment or demand notice delivered by the Operational Creditor to the Corporate Debtor;
- (b) an affidavit to the effect that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt;
- (c) a copy of the certificate from the financial institutions maintaining accounts of the Operational Creditor confirming that there is no payment of an unpaid operational debt by the Corporate Debtor;
- and
- (d) such other information as may be specified.

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8. A perusal of the aforesaid would show that a copy of the invoice demanding payment or demand notice delivered by the Operational Creditor to the Corporate Debtor must be placed on record. An affidavit showing that there was no notice given by the Corporate Debtor in raising a dispute of the unpaid operational debt is also required to be filed. A copy of the certificate from the financial institutions maintaining accounts of the Operational Creditor confirming that there is no payment of an unpaid operational debt by the Corporate Debtor should also be on record. A perusal of the paper book shows that the Operational Creditor has placed on record a copy of the demand notice dated 08.01.2017 (P/8). There is an affidavit filed by Mr. Sandeep Gupta that the aforesaid demand notice has not been responded to. It is further clear that the statement of accounts maintained by the Operational Creditor has also been placed on record along with the master data of the Corporate Debtor. The copies of the post dated cheques and the invoices showing the "funds insufficient" issued by the Bank dated 16.05.2014 (page 51), dated 23.06.2014 (page 53) have also been placed on record. Therefore, we find that the requirements of Section 9 are substantially fulfilled. The

liability to pay has also not been disputed in view of the facts that the

Operational Creditor had received seven post dated cheques in lieu of full and final settlement dated 21.01.2014 (page 57). We are further of the view that the claim is within the period of limitation of three years as the earliest cheque dishonoured is dated 15.03.2014 and the present petition was filed on 01.03.2017. We are also persuaded to take the view that issuance of a cheque amounts acknowledging the liability to pay as per the Division Bench judgment of Kerela High Court in Ramakrishnan's case which has been rightly relied upon by the operational creditor. The reliance of the Operational Creditor on other judgements is equally meritorious.

9. Therefore, we are of the view that it is a fit case for triggering the insolvency resolution process. Accordingly, we initiate the insolvency resolution process. As the interim resolution professional has not been named, we appoint Shri Vivek Goyal practicing Chartered Accountant (Mobile No. 98155-22553) who is duly registered with Insolvency Bankruptcy Board (IBBI/IPA-001/IP-00089/2016-17/1117). The provisional insolvency professional shall take immediate steps in terms of Section 14 as there would be a 'Moratorium' on the Corporate Debtor. The

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provisions of Section 14 are extracted below for a ready reference and the same reads as under:-

14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, 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





Securitisation 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 corporate debtor.

(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.

(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:

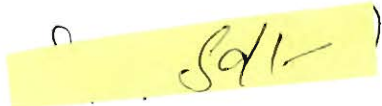
Provided that where at any time during the corporate insolvency  
resolution process period, if the Adjudicating Authority approves  
the resolution plan under sub-section (1) of section 31 or passes  
an order for liquidation of corporate debtor under section 33, the

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moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

10. The insolvency resolution professional shall also take steps and perform his duties in terms of Section 15, 17 & 18. All personnel of the Corporate Debtor including its promoters are expected to extend full cooperation to the interim resolution professional as is provided by Section 19 and any other provisions of the Code. The insolvency professional shall submit his report to us within four weeks.
11. The petition stands disposed of in above terms.

  
(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT

  
(R.VARADHARAJAN)  
MEMBER (JUDICIAL)

Date: April 12, 2017

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