

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V

(IB)-2092(ND) 2019

In the matter of

PRINTS PUBLICATION PRIVATE LIMITED
Prints House,
11, Darya Ganj,
New Delhi - 110002

.....Operational Creditor

V/S

GOYAL BOOKS OVERSEAS PVT. LTD.
B-5/200, Saafdarjung Enclave,
New Delhi - 110029

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 04 .11.2019

CORAM:

JUSTICE (RETD.) RAJESH DAYAL KHARE, HON'BLE MEMBER (J)
SMT. SUMITA PURKAYASTHA, HON' BLE MEMBER (T)

PRESENT- Mr. Awnish Kumar for the Petitioner
None Present for the Respondent

ORDER

Per Justice (Retd.) Rajesh Dayal Khare (Member Judicial)

1. The present petition has been filed invoking the provision of Section 9 of the Insolvency & Bankruptcy Code, 2016.
2. The petitioner/Operational Creditor used to supply books to the respondent/Corporate Debtor as and when required by the Corporate Debtor. The Corporate Debtor had placed an order for shipment of



572 units of books on 29.06.2017 amounting to Rs. 4,24,909/- and the same were delivered to Corporate Debtor on 05.08.2017, against the invoice No. BI12 dated 08.08.2017. On 06.07.2017, the Corporate Debtor placed another order for 191 units of books. The same was delivered to Corporate Debtor on 22.08.2017 and bill No. BI14 dated 07.09.2017 amounting Rs. 1,68,648/- were raised against Corporate Debtor. On 26.07.2017, Corporate Debtor had placed another order for 1104 unit of books, which was duly delivered to Corporate Debtor on 20.09.2017 and an invoice No. BI17 dated 22.09.2017 amounting to Rs. 6,37,918/- was raised. Later on, as per mutual consent 218 units of books were returned on 19.12.2017 and the credit note of Rs. 2,21,202.95/- was issued by the Petitioner on 09.01.2018. The final amount due for payment is Rs. 12,20,574/-. The Petitioner has, therefore, filed this petition as an Operational Creditor praying for initiation of Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate their claim of Rs. 12,20,574/-.

3. As per averment, the Operational Creditor vide their emails dated 25.09.2017, 28.09.2017, 10.10.2017, 11.10.2017, 12.10.2017, 25.10.2017, 27.10.2017, 16.11.2017, 02.11.2017, 07.11.2017, 09.11.2017, 28.11.2017, 17.03.2018 and 18.06.2018 requested to the Corporate Debtor to release the payment. However, the Corporate Debtor neither made the payment nor responded to the said emails.



4. The Operational Creditor has claimed as detailed as under: -

Particulars	Amount (Rs.)
Principal Outstanding Amount	10,10,272/-
Interest @ 14.5% per annum w.e.f. 09.01.2018	2,10,302/-
Total	12,20,574/-

5. The Operational Creditor issued the demand notice dated 20.06.2019 as required under Section 8 of the Code was issued, demanding a total sum of Rs. 12,20,574/-. The Corporate Debtor, vide reply dated 24.06.2019, acknowledged the debt of the Operational Creditor and offered for negotiation. However, the Operational Creditor has not received any payment from the Corporate Debtor.

6. In view of the Corporate Debtor's failure to reduce or liquidate its liability, the present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Affidavit in compliance under Section 9(3)(b) and 9(3)(c) of Code are on record to corroborate his case.

7. The Corporate Debtor has been duly served by Courier Service. None was present on behalf of the Corporate Debtor hence they were proceeded ex-parte vide order dated 20.09.2019. Considering the circumstances, the prayer of the Operational Creditor merits consideration. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith staying:-



- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (b) transferring, encumbering, alienating or disposing of by the corporate debt or 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.*

Further:

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

8. The Operational Creditor has proposed the name of CS Saurabh Agrawal as the IRP. His details are as follows:
Registration No. IBBI/IPA-002/IPO-N00344/2017-2018/10994
email saurabhfcs@gmail.com duly empanelled with the IBBI as the IRP. The consent of CS Saurabh Agrawal is on record along with the copy of his certificate. We accordingly confirm his appointment as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file his report before the Adjudicating Authority
9. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.
10. Copy of the order be sent to both the parties as well as to the IRP.
11. To come up on for further consideration.

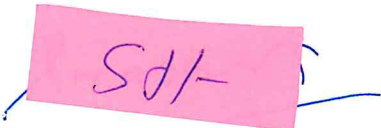

SUMITA PURKAYASTHA

Member (T)


JUSTICE RAJESH DAYAL KHARE

Member (J)

Pronounced today under Rule 151 of the NCLT Rules 2016 as Hon'ble Member(J), Justice (Retd.) Rajesh Dayal Khare is not holding court today.


(PRABHAT KUMAR SHARMA)
COURT OFFICER