

(14)

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 03-02-2020**

**PRESENT: SHRI R.VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL**

**APPLICATION NUMBER :
PETITION NUMBER : IBA/1181/2019
NAME OF THE PETITIONER(S) : RENUKA PROCESS
NAME OF THE RESPONDENT(S) : CLASSIC KNITS INDIA PVT LTD
UNDER SECTION : SEC 9 RULE 6**

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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REPRESENTATION BY WHOM

1. R.S.SUMAN
AK.MYLSAMY + ASSOCIATES LLP } FOR CORPORATE DEBTOR

2. Vaisha Balasubramanian
(for) Preeti Mohan } For Operational Creditors
Pavitra Venkateswaran

3.) Goutham. Shanmugam
Director of Corporate debtor

S. Goutham

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IBA/1181/2019 filed under
Section 9 of the Insolvency and
Bankruptcy Code, 2016 r/w Rule 6 of
the Insolvency and Bankruptcy
(Application to Adjudicating Authority)
Rules, 2016

In the matter of ***M/s. Classic Knits India Pvt. Ltd.***

M/s. RENUKA PROCESS

A Partnership Firm
210/2, Karuvellankattu Thorram,
Murugampalayam, Iduvampalayam,
Tirupur – 641 687

... Operational Creditor

-Vs-

M/s. CLASSIC KNITS INDIA PRIVATE LIMITED

43, Jayalakshmi Ginning Factory Compound
Alangadu, Mangalam Road,
Tirupur – 641 604

... Corporate Debtor

Order delivered on 3rd February, 2020

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

*For Operational Creditor : Varsha Balasubramanian,
Advocate*

*For Corporate Debtor : P.S. Suman, Advocate,
For A.K. Mysamy & Associates*

*Goutham Shanmugam,
Director of Corporate Debtor.*

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

Heard and dictated in open Court on 03.02.2020

1. It is a petition filed under Section 9 of the Insolvency and Bankruptcy Code (IBC), 2016 read with Rule 6 of IBC (Application to Adjudicating Authority) Rules, 2016 (IBC (AAA) 2016 (for the sake of brevity) by the Petitioner in its capacity as Operational Creditor and the Respondent is described as its Corporate Debtor. Part-I of the prescribed Form contains the details of applicant. Part-II contains the particulars of the Corporate Debtor from which it is evident that the Corporate Debtor Company was incorporated on 28.01.2010. The Nominal Share Capital and Paid-Up Share Capital of the Corporate Debtor is given as Rs.16,00,00,000/- and Rs. 15,52,00,000/- respectively. The Registered Office address of the Corporate Debtor is stated to be at No.43, Jayalakshmi Ginning Factory Compound, Alangadu, Mangalam Road, Tiruppur – 641 604 which is co-related with Master Data filed on 06.01.2020. Part-III of the prescribed application discloses the name of the proposed Interim Resolution Professional (IRP) as Mr. S. Muthuraju. Part-IV of the application gives the details of the transaction as between the Operational Creditor and the Corporate Debtor and the amount in default arising out of the

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transaction is claimed to be outstanding due as Rs.23,49,690/- (Rupees Twenty Three Lakhs, Forty Nine Thousand, Six Hundred and Ninety only) together with interest at 18% from the date of respective invoices till 23.07.2019. The Operational Creditor is stated to have rendered service of processing and Dyeing and in relation to which 51 invoices were raised by the Operational Creditor to the Corporate Debtor. All the details of the said invoices have been annexed in the Demand Notice which has been sent to the Corporate Debtor filed along with typed set of documents as given in Page-6. Part-V of the application gives details of the documents and records in which the Petitioner/Operational Creditor seeks to rely to establish the claim of the outstanding due and evidence of default for which the Petition has been filed.

2. The counsel for the Petitioner during the course of submissions brought to the notice of this Tribunal the demand notice which was sent to the Corporate Debtor on 23rd July 2019 and also the Master Data vide Page-3 of the additional typed set of documents filed on 06.01.2020 by which the counsel for the Petitioner points in relation to the service of demand notice which had been acknowledged and it is pointed out that due to financial constraints the Corporate Debtor in its reply had expressed its inability to honour its commitment to pay the claim



due, as required to be made, under the invoices raised by the Petitioner. The counsel for the Petitioner also points out the fact that the said claim has been brought forth due to financial distress and the Corporate Debtor is not in a position to repay the liability.

3. The Corporate Debtor being represented by its counsel Mr. P.S. Suman, Advocate and it is represented by the counsel for the Corporate Debtor that it had accepted the liability and in relation to confirmation of the liability a letter was also sent on 15.04.2019 confirming the balance of Rs.20,98,162/- as on 31.03.2019. One of the Directors of the Company as shown in the Master Data namely, Shanmugam Goutham having DIN No.05159108 is also present in person and he intimated that the company is not in a position to make the payment due as it is facing serious financial distress. It is further undertaken by the Corporate Debtor represented by the said Director that full co-operation will be extended to the IRP, if this Tribunal chose to admit the petition and initiate Corporate Insolvency Resolution Process (CIRP) and the same is taken on record. Since the claim stands admitted by the Corporate Debtor and which is in default and the amount being in excess of Rs.1,00,000/-, this Tribunal is perforce to initiate CIRP in relation to the Corporate Debtor by admitting this Petition under the provisions of Insolvency and



Bankruptcy Code, 2016 read with Application to Adjudicating Authority Rules, 2016. The IRP proposed has filed his consent in Form-2 which is available at Page-310 of the typed set of document along with the Certificate as issued by IBBI is also annexed at Page-312 of the typed set of documents. In view of the consent given as well as the Certificate annexed issued by the IBBI in respect of the proposed IRP, Mr. Muthuraju, Regn. No. IBBI/IPA-002/IP-N00009/2016-2017/10013 is appointed as Interim Resolution Professional in relation to the CIRP against the Corporate Debtor and the IRP is directed to act as per the provisions contained in Insolvency and Bankruptcy Code, 2016 and IBBI Rules and Regulations framed governing the action of the IRP under this Act.

4. As a consequence of the Application being admitted under the provisions of Insolvency and Bankruptcy Code, 2016 read with Application to Adjudicating Authority Rules, 2016, 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.

5. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

- (i) 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.



(ii) 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.

6. 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:

(iii) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

(iv) 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.

7. Based on the above terms, the Application stands **admitted** under the provisions of Insolvency and Bankruptcy



Code, 2016 read with Application to Adjudicating Authority Rules, 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 who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry.


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(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

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