

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

CP(IB) 91/9/NCLT/AHM/2020

Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE THE AHMEDABAD BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 24.03.2021

Name of the Company: Chaitanya Bhavanishanker Paneri
V/s
Nutech Infotech Pvt Ltd

Section: 9 of the Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Dated this the 24th day of March, 2021



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) 91/9/NCLT/AHM/2020

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

Chaitanya Bhavanishanker Paneri

Having address at:

F-2, Padmavati Apartment,

B/h New Sharda Mandir School, Paldi,

Ahmedabad-380007

....Operational Creditor

Versus

Nutec Infotech Pvt. Ltd.

Having address at:

B-601,602, Siddhi Vinayak Tower-B,

B/h DCP Office, Near Adani Vidya Mandir,

Off. S.G. Highway, Makarba,

Ahmedabad-380051.

....Corporate Debtor

Order Reserved on: 23.03.2021.

Order Pronounced on: 24.03.2021.

Coram: MADAN B. GOSAVI, MEMBER (J)

VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

Learned Counsel Mr. Manan K Paneri appeared for the Operational Creditor.

ORDER

[PER VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed by applicant, namely, Mr. Chaitanya Bhavanishanker Paneri, being ex-employee of the Corporate Debtor, under Section 9 of Insolvency & Bankruptcy Code, 2016 (here-in-after referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (here-in-after referred to as "**CIRP**") against the Corporate Debtor, namely, M/s Nutec Infotech Pvt. Ltd. for the total outstanding amount of debt of Rs. 2,20,821/- (Rupees Two Lacs Twenty Thousand Eight Hundred and Twenty One Only).
2. No one appeared for the Corporate Debtor; hence, we proceeded to decide this application after hearing the learned counsel for the applicant and considering the material available on record.
3. The facts, in brief, are that the applicant was an employee of the Corporate Debtor at the position of General Manager, Marketing. The applicant got relieved from service of the Corporate Debtor 25.05.2019 as per

relieving certificate issued by the Authorized Signatory of the Corporate Debtor dated 17.06.2019.

4. Learned Counsel for the applicant appeared and submitted that notice under Section 8 of IBC, 2016 had duly been served on the Corporate Debtor to which no reply was given. Our attention was also drawn to the fact that the applicant started working as General Manager marketing on 16.08.2017 at a monthly salary of Rs. 75,000/- . He continued in such position till 25.05.2019. The unpaid salary of Rs. 2,20,821/- was not paid in spite of several reminders. Ultimately, the aforesaid notice under Section 8 of IBC, 2016 had been served. The Learned Counsel submitted that having regard to these facts, this application was liable to be admitted. It was also brought to our notice that name of IRP had not been proposed who could be appointed by this Authority, if the application was admitted.
5. We have considered the submissions made on behalf of applicant and material on record. It is not in dispute that applicant was serving as General Manager of the

Corporate Debtor. This fact is further supported by Form-16 issued under the provisions of Income Tax Act, 1961 which confirm the quantum of salary. It is also not in dispute that reply to notice of demand issued under Section 8 of IBC, 2016 has not been given. Such notice has been delivered and notice to that effect has been put on record, hence, for this reason alone this application can be admitted. Further the debt is due and payable because it is not barred by limitation nor it is premature. No dispute prior to issue of notice under Section 8 of IBC, 2016 exists as evident from the material on record. A default has occurred in payment thereof. The outstanding amount is more than Rs. 1,00,000/-, being threshold limited to admit the petition filed under Section 9 of IBC, 2016.

6. The name of IRP has not been proposed which is not mandatory in case of an application filed under Section 9 of IBC, 2016. Hence, we shall appoint an IRP from the list approved by IBBI. The petition is otherwise complete and defect free. Hence, we allow the present application and

admit the Corporate Debtor in CIRP under Section 9 of IBC, 2016. Accordingly, we pass the following order:

ORDER

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- (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 order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the



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Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

3. The Operational Creditor has proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoints **Mr. Manish Santosh Buchasia having Registration No. IBBI/IPA-002/IP-N00487/2017-2018/11449, E-mail id: manishbuchasiacs@gmail.com** to act as an IRP under Section 13(1) (c) of the CODE.
4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing

an appropriate order.

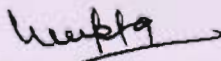
5. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay, an advance of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report.



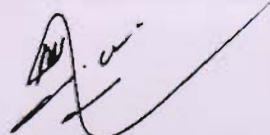
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8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.
7. Accordingly, CP (IB) No. 91/9/NCLT/AHM/2020 is allowed and stands disposed of.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



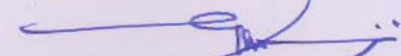
(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Signed on this, the 24th day of March, 2021.

Rajeev Sen/Stenographer



Certified to be True Copy of the Original



Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad

30/03/21