

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI AJAY KUMAR VATSAVAYI,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 02/9/JPR/2021

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

Sangam (India) Limited
Atun,
Chittorgarh Road,
Bhilwara- 311001 (Rajasthan)

...Operational Creditor / Applicant

VERSUS

Aarti Suitings Pvt. Ltd.
E-187, RIICO III Phase,
Bhilwara- 311001 (Rajasthan)

...Corporate Debtor / Respondent

For the Applicant : **Abhishek Devgan, Adv.**
Chetan Tripathi, Adv.

For the Respondent : **Anurag Kalavatiya, Adv.**

Order Pronounced on: -17.06.2021

ORDER

Per: Shri Raghu Nayyar, Technical Member

1. This Application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 6 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016, by Sangam (India) Limited ('Applicant' / 'Operational Creditor'), claiming to be an Operational Creditor, seeking initiation of Corporate Insolvency Resolution Process ('CIRP') against Aarti Suitings Pvt. Ltd. ('Corporate Debtor' / 'Respondent'). The instant Application is filed through an authorised representative of Applicant, Mr. Vinod Kumar Sodani, authorised through board resolution dated 31.10.2020.
2. The Applicant is a Company limited by shares incorporated under the provisions of the Companies Act, 1956 on 29.12.1984 and duly registered with the Registrar of Companies, Jaipur, with CIN: L17118RJ1984PLC003173. The registered office of the Applicant Company is at Atun, Chittorgarh Road, Bhilwara- 311001 (Rajasthan). The Applicant is in the business of manufacturing and supply of PV yarns, weaving of grey fabrics and finished textile products.

3. The Respondent is a Company limited by shares, incorporated under the provisions of the Companies Act, 1956 on 01.02.1994 and duly registered with the Registrar of Companies, Jaipur with CIN: U18108RJ1994PTC007997. The registered office of the Company is at E-187, RIICO III Phase, Bhilwara- 311001 (Rajasthan). The authorised share capital of the Respondent is Rs. 3,15,00,000/- (Rupees Three Crores Fifteen Lakhs Only) and the paid-up share capital is Rs. 3,08,28,500/- (Rupees Three Crores Eight Lakhs Twenty Eight Thousand Five Hundred Only).
4. It is the case of the Applicant that since 2017, the Applicant had been supplying goods/ products to the Respondent and raised various invoices. As per the payment terms, the Respondent was required to make the payment of invoiced amounts within 4 days from the date of invoice, failing which the Respondent was liable to pay interest @ 18% p.a. Further, the Respondent had defaulted in making payment from December, 2017 which continued till October 2018, for total of 25 invoices. Copies of various invoices raised for the said period are annexed as Annexure 3 of the Application. The Applicant has also filed a copy of the ledger of the Respondent as maintained by the Applicant as Annexure- 7.
5. Thereafter, the Applicant had issued a demand notice dated 05.11.2020 in Form 3, demanding an amount of Rs. 1,00,83,105/- which was served upon the Respondent on 09.11.2020. The Respondent vide reply dated 19.11.2020

acknowledged and admitted its liability towards the claim amount, however no payment was made by the Respondent. Thus, the Applicant filed the present Application under Section 9 of the Code.

6. As claimed by the Applicant, the Respondent is liable to pay an amount of Rs. 1,00,83,105/- as reflected in Part IV of Form- 5 filed.

Part IV

S. No.	Particulars of Operational Debt	
1.	Total amount of debt, details of transactions on account of which debt fell due, and the date from which such debt fell due.	Rs. 1,00,83,105/- (One Crore Eighty Three Thousand One Hundred Five Only) Date of Default: 23.12.2017
2.	Amount claimed to be in default and the date on which the default occurred	Principal outstanding Rs. 45,21,353/- with interest of Rs. 55,61,752/- @ 18% p.a.

7. In reply to the Application, the Respondent admitted liability towards the claim amount and stated that it could not make timely payments due to unforeseeable and unfortunate events.
8. The Applicant had filed a rejoinder reiterating its pleadings as mentioned in the Application and praying that the present Application may be allowed.

9. The registered office of the Respondent Corporate Debtor is situated in Jaipur and therefore this Adjudicating Authority has jurisdiction to entertain and try this Application.
10. The first default had occurred on 23.12.2017 which continued till 02.11.2018, hence the debt is not time barred and the Application is filed within the period of limitation.
11. In the given facts and circumstances, we find that the application in Form 5 is complete; no payment of the unpaid operational debt of Rs. 1,00,83,105/- has been made and demand notice in Form No. 3 was duly served on the Corporate Debtor through registered post and the amount due has been acknowledged by the Respondent. The Applicant has filed an affidavit under Section 9(3)(b) of the Code to the effect that there is no notice given by the Respondent relating to dispute of the unpaid operational debt. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the Application and direct the initiation of CIRP of Aarti Suitings Pvt. Ltd.
12. Under sub-section (4) of Section 9 of the Code, the Operational Creditor may propose the name of a Resolution Professional to be appointed as Interim Resolution Professional ('IRP') but it is not obliged to do so. In the instant case, the Operational Creditor has proposed the name of Mr. Rishabh Chand Lodha, to be appointed as IRP. The Applicant has filed Consent in Form 2



under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016, stating therein that no disciplinary proceedings are pending against the named IRP.

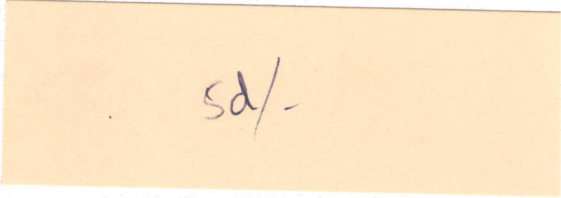
13. The credentials of the proposed IRP have been checked from IBBI website (www.ibbi.gov.in) and nothing adverse is found on record. In view of the same, this Adjudicating Authority appoints Mr. Rishabh Chand Lodha with Registration No. IBBI/IPA-001/IP-P01075/2017-2018/11766 (email id: rishabhloadha57@gmail.com Mob: +91-7042527528) duly registered with the Insolvency and Bankruptcy Board of India, as the IRP. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20 and 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, and Rules and Regulations thereunder.

14. Consequences of initiation of CIRP shall be inter-alia as follows:

- (i) The IRP appointed by the Adjudicating Authority, Mr. Rishabh Chand Lodha, is directed to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of Code including issue of publication in widely circulated Newspapers as contemplated under the provisions of the Code and calling for claims from the creditors of the Corporate Debtor; and collation of the same shall be done.

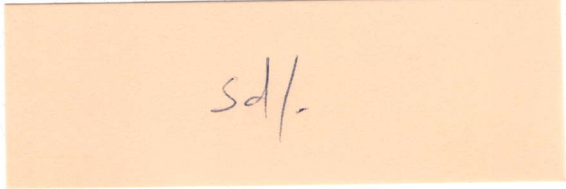
- (ii) Further, as a sequel of admission, moratorium as envisaged under Section 14 of the Code is invoked in relation to the Corporate Debtor which will be in vogue during the CIRP of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of the Code in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly in accordance with the provisions of the Code and with a view to defray his expenses to be incurred and fees on account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Two Lakhs Only) to the account of IRP within three days from the date of this order. The IRP shall duly file a status report apprising this Adjudicating Authority about the progress of CIRP as unfolding in relation to the Corporate Debtor. In terms of Section 17 and 19 of the Code all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.
- (iv) In terms of Section 9 of the Code, this order shall be communicated at the earliest, not exceeding one week from today, to the Applicant, Corporate Debtor as well as the IRP appointed by this Adjudicating Authority to carry out CIRP. A copy of this order shall also be communicated to IBBI for its records.

15. In the circumstances CP No. (IB)- 02/9/JPR/2021 is admitted.



sd/-

**SH. RAGHU NAYYAR,
TECHNICAL MEMBER**



sd/-

**SH. AJAY KUMAR VATSAVAYI,
JUDICIAL MEMBER**