

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

CP(IB) 387 of 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 03.05.2021

Name of the Company:

Royal Synthetics
V/s
Decent Laminates Pvt Ltd

Section:

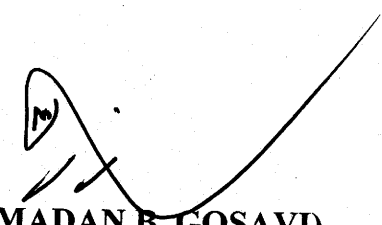
9 of Insolvency and Bankruptcy Code, 2016

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 3rd day of May, 2021.

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

CP (IB) No.387/9/NCLT/AHM/2020

In the matter of:

M/s. Royal Synthetics,
Having its registered office at:
405, Palm Spring Center,
Malad Linking Road,
Malad (W),
Mumbai – 400064.

... Petitioner/ Operational Creditor

V/s.

M/s. Decent Laminates Pvt. Ltd.
Having its registered office at:
401, Hari Krupa Tower,
Nr. Old Sharda Mandir Cross Road,
Ellisbridge, Ahmedabad.

... Respondent/Corporate Debtor

**Date of Hearing: 6th April, 2021
Date of Pronouncement: 3rd May, 2021**

**Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)**

Appearance:

Learned Counsel Mr. Kunal Vaishnav, for the Operational Creditor.

Learned Counsel Mr. Monal Davawala along with Ms. Gargi Vyas, for the Corporate Debtor.



ORDER

**[Per: Madan B. Gosavi, Member (Judicial)]
(Through Video Conferencing)**

1. M/s. Royal synthetics a proprietary firm ("the Operational Creditor) through its proprietor Mr.Ajaykumar Navinchandra Shah, filed this application under Section 9 of the Insolvency and Bankruptcy Code, 2016, against M/s. Decent Laminates Private Ltd. ("the Corporate Debtor") to start the Corporate Insolvency Resolution Process against the Corporate Debtor on the ground that Corporate Debtor committed default in paying the operational debt of Rs.20,15,647/-.
2. The following facts are not in dispute.
3. By two invoices dated 05.09.2019 and 09.07.2019, the Operational Creditor sold and supplied the Corporate Debtor, melamine bags. The total sale price was Rs.17,62,920/-. The Corporate Debtor did not make payment as agreed. However, both of them had entered into agreement under which, the Corporate Debtor delivered the Operational Creditor, eight (08) post-dated cheques towards the payment of price of the goods.
4. It is the say of the Operational Creditor that, while he was to present the cheques for encashment, he received a letter dated 18.12.2019 from the Corporate Debtor informing not to present the cheques, as the cheques were cancelled. Since the Corporate Debtor did not pay



the outstanding, till 14.09.2020, the Operational Creditor served on the Corporate Debtor a demand notice under Section 8 of the IB code. In spite of receipt of such notice, the Corporate Debtor neither made any payment nor replied the notice, pointing any pre-existing dispute. Hence, this application is filed to start the Corporate Insolvency Resolution Process of the Corporate Debtor.

5. Notice of this application was duly served to the Corporate Debtor. One of its Directors, Mr. Mukund D. Patel appeared and filed the reply. We have gone through contentions therein. It appears to us that the Corporate Debtor did not dispute the fact that the operational debt of more than Rs.17,62,920/- is due and payable by it to the Operational Creditor. It has also admitted that the payment of operational debt could not be made due to peculiar financial position that has arisen due to COVID-19 pandemic.
6. Since the Corporate Debtor admitted the existence of its debt and the default and also admitted that he did not make any payment in spite of receipt of demand notice, we did not go into details of his further explanation(s) given in reply. Suffice to say that the Corporate Debtor admitted that in spite of receipt of demand notice from the Operational Creditor it could not make payment of operational debt, due and payable due to his weak financial condition.

7. We have every sympathy with the Corporate Debtor but ultimately, the fact proved on record is that the Corporate Debtor is an insolvent and its insolvency has to be resolved by the process of law. We admit the Corporate Debtor in Corporate Insolvency Resolution Process.
8. The Operational Creditor did not suggest the name of any Insolvency Professional and left the matter discretion of this authority.
9. The application is defect free Hence, we admit the Corporate Debtor in the Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 by following order:

ORDER

1. The Corporate Debtor, M/s. Decent Laminates Pvt. Ltd (CIN: U20219GJ1985PTC008230) is hereby admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 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.
3. 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 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.
4. We hereby appoint Mr. Jaykumar Pesumal Arlani having Registration No. IBBI/IPA-001/IP-P01582/2018-2019/12443, Email ID arlanijay@gmail.com to act as an IRP under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w.

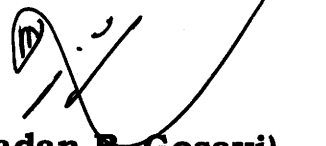
Regulation made thereunder:

5. 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 extending 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, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
6. This Adjudicating Authority directs the IRP to make a 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.
7. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
8. 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.50,000/- (Rupees Fifty Thousand Only)** to the IRP within two weeks **from the date 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. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

9. 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.
10. Accordingly, CP (IB) No.387/9/NCLT/AHM/2020 stands admitted.


(Virendra Kumar Gupta)
Member (Technical)


(Madan B. Gosavi)
Member (Judicial)

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