

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB) No.147/BB/2018

U/s 9 of IBC, 2016

R/w Rule 6 of I&B (AAA) Rules, 2016

Between:

M/s Unistil Alcoblends Private Limited,
Registered office at:
No. 124, 10th Cross,
Indiranagar, Stage - 1,
Bengaluru - 560 038

... Petitioner/Operational Creditor

And

M/s India Brewery & Distillery Private Limited
No. 23, 1st Floor,
Rest House Crescent,
M.G.Road,
Bengaluru - 560 001

... Respondent/ Corporate Debtor

Date of Pronouncement: 25th February, 2021**Coram:**

1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri Santosh S Gogi
For the Respondent : Mrs. Saranya Devi

ORDER**Per:** Rajeswara Rao Vittanala, Member (J)

1. C.P (IB)No.147/BB/2018 is filed by M/s Unistill Alcoldends Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor) U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. India Brewery & Distillery Private Limited (hereinafter referred to as Respondent/Corporate Debtor) on the ground, that it has committed



default for total amount of Rs. 2,38,16,374/-(Rupees Two Crore Thirty Eight Lakhs sixteen Thousand Three Hundred and Seventy Four only)

2. The Adjudicating Authority, after hearing the matter, earlier rejected the Petition, vide order dated 11.01.2019. Aggrieved by this Order, the Petitioner has preferred an Appeal being Company Appeal (AT) (Ins) No. 162 of 2019 before the Hon'ble NCLAT, New Delhi. After hearing the Parties, the said Appeal was disposed of by an order dated 16.01.2020 with the following orders/directions:

"9. For the above reasons we allow the Appeal. We set-aside the impugned order and remit back the matter to the Adjudicating Authority. The Respondent may, before Section 9 Application is admitted by the Adjudicating Authority, settle the dispute with the Appellant, if the Respondent so wants. The Appellant and Respondent will appear before the Adjudicating Authority on 10th February 2020. If the Respondent does not settle the dispute before that date, the Adjudicating Authority will admit the Section 9 Application and pass further necessary orders required to be passed under the IBC.

The Appeal is disposed of accordingly. No costs."

3. Subsequently, aggrieved by said order dated 16.01.2020, the Respondent/Corporate Debtor preferred an Appeal before the Hon'ble Supreme Court of India, New Delhi bearing Civil Appeal No. 1578/2020, which was ultimately dismissed by an order dated 3rd February,2021. Therefore, the order passed by the Hon'ble NCLAT has become final.
4. Accordingly, the case was listed for hearing on various dates i.e, 10.02.2020, 27.02.2020, 16.03.2020, 11.01.2021, 18.01.2021, 22.01.2021, 04.02.2021 & on 10.02.2021 in order to give opportunity to the Parties to explore the possibility of settling the



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issue as directed by the Hon'ble NCLAT. However, the Parties have not come forward to settle the issue

5. Heard Shri Santosh S. Gogi, learned Counsel for the Petitioner, and Mrs. Saranya Devi, Learned Counsel for the Respondent **through Video Conference**. We have carefully perused the pleadings of the Parties, and the extant provisions of the Code, the Rules made there under, and the law on the issue.
6. Shri Santhosh.S.Gogi, Learned Counsel for the Petitioner, while reiterating the various averments made in the petition, as mentioned supra, has further submitted that the debt and default in question are not in dispute and the instant Petition is filed in accordance with law. And the Respondent has not come forward to settle the issue and thus the case has to be admitted by initiating CIRP with consequential directions.
7. Mrs. Saranya Devi, Learned Counsel for the Respondent, on the other hand, could not submit any concrete proposal for settlement of the issue so far.
8. As stated supra, the Adjudicating Authority has given sufficient opportunity to the Respondent to explore the possibility of settlement of the issue in question but to no avail. Therefore, there is no other alternative for the Adjudicating Authority except to admit the case as ordered by the Hon'ble NCLAT.
9. The instant Company Petition is filed in accordance with law and the Petitioner also suggested a qualified Insolvency Professional Mr. Kondisetty Kumar Dushyantha bearing Registration No. IBBI/IPA-002/IP-N00237/2017-18/10688, e-mail:dushyanthak@gmail.com, as IRP, who has also filed written Communication in Form-2 dated 24.02.2021, by *inter-alia* declaring that he is a qualified Insolvency Resolution Professional; there are no disciplinary proceedings pending against him with the Board or ICSI Insolvency Professional Agency. Hence, the instant Company Petition is fit case to admit by

(By Shri)



initiating CIRP by appointing IRP, and declaring moratorium etc., in respect of the Corporate Debtor.


10. In view of the above facts and circumstances of the case, by exercising powers conferred on this Adjudicating Authority, under provisions of Section 9 of the Code and other extant provisions of the IBC, 2016, we hereby admitted **C.P.(IB)No.147/BB/2018** by initiating Corporate Insolvency Resolution Process (CIRP) in respect **M/s. India Brewery & Distillery Private Limited** the Respondent/Corporate Debtor, with the following consequential directions:

- 1) Shri Kondisetty Kumar Dushyantha bearing Registration No. IBBI/IPA-002/IP-N00237/2017-18/10688, e-mail: dushyanthak@gmail.com, Karnataka, Bengaluru, who is qualified Insolvency Professional, is hereby appointed as Insolvency Resolution Professional, in respect of the Respondent/Corporate Debtor namely M/s. India Brewery & Distillery Private Limited to carry out the CIRP as mentioned under the Insolvency and Bankruptcy Code, 2016 and various rules issued by IBBI from time to time;
- 2) The following moratorium is declared prohibiting all of the following, namely:
 - a) the institution of suits or continuation of pending suits or proceedings against the Respondent/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

[Handwritten Signature]

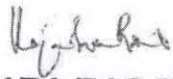


- property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;
 - e) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period;
 - f) 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;
 - g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;
- 3) The IRP is directed to follow all extant provisions of the IBC, 2016, and all extant rules including fees rules as framed by IBBI from time to time. The IRP is hereby directed to file progress reports to the Adjudicating Authority from time to time.
 - 4) The Board of Directors and all the staff of Respondent/ Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.
 - 5) The Registry is directed to forward a copy of this order immediately to both the Parties and also IBBI and IRP.
 - 6) Post the case for report of IRP on **25.03.2021**

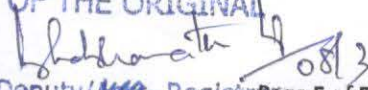

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

BY




RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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 for Deputy/Registrar
 National Company Law Tribunal
 Bengaluru Bench
 Rajeswara M