

NATIONAL COMPANY LAW TRIBUNAL, CUTTACK BENCH,
CUTTACK

ORDER SHEET OF THE HEARING ON 31st MARCH, 2021, 10:30 A.M.

CP (IB) No. 52/CTB/2020

Present: 1. Hon'ble Member, Ms. Sucharitha R. (J)
2. Hon'ble Member, Shri Satya Ranjan Prasad (T)

Name of the Company	M/s. Calcopolychem Pvt. Ltd. -Vs- M/s. Raipur Polymers Pvt. Ltd.
Under Section	9 IBC

Coram: 1. Hon'ble Member, Ms. Sucharitha R. (J)
2. Hon'ble Member, Shri Satya Ranjan Prasad (T)

For Petitioner (s) CS Debadatta Mohapatra

For Respondent (s) :

ORDER

- Petitioner is represented by Ld. CS Shri Debadatta Mohapatra. Ld. Counsel Mr. Ambika Prasad Mohanty is present for the respondent. This application is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process against the respondent herein. The Registered Office of the respondent is situated at H. No. 40/804/1, 1st Floor, Behind Lal Ganga Shopping Mall, Near Modern X – Ray, G.E. Road, Raipur, Chhattisgarh – 492 001. Hence, this Adjudicating Authority has jurisdiction to hear this application.

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2. This application was filed on 03.02.2020. At that point of time, this Adjudicating Authority had jurisdiction to hear applications filed for the amount due and payable above one lakh.
3. These invoices relate to the period from 11.02.2019, 02.03.2019, 16.03.2019, 20.03.2019, 28.03.2019, 06.04.2019, 22.04.2019 and 16.05.2019. Hence, this application is well within the period of limitation.
4. The applicant states that he has been regularly supplying goods to the respondents during course of the business. Various amounts are due and payable. The invoices for which the amount is due and payable are annexed at Page No. 83 to 108 as “**Annexure – 9**” of the application. Invoices are dated from 11.02.2019 to 16.05.2019. The learned Counsel for the applicant states that as per the invoices and terms and conditions, the applicant is also entitled for 24% for the delayed payment. The total amount, according to the applicant due and payable by the respondent is to the tune of Rs. 18,12,488/- (Rs. Eighteen Lakh Twelve Thousand Four Hundred Eighty-Eight) only. The petitioner had issued Demand Notice in Form – 3 and Form – 4 dated 10.12.2019. The same was received by the respondent on 13.12.2019. There is no pre-existing dispute between the parties. The respondent has not replied to the Demand Notice issued by the applicant. The applications satisfy all other aspects of the code.

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Statement of Accounts is also enclosed with the application from Page No. 78 to 82 as “Annexure – 8”.

5. The learned Counsel for the respondent submits that the petitioner and respondent had a long-standing business relationship. The respondent paid various Bills to of the applicant. The applicant at the earlier point of time have given more credit period for settlement of the amount. The counter has been filed by the respondent. The respondent denies and opposes that there is no interest due and payable by the respondent to the applicant. However, outstanding operational debt of Rs. 15,77,852/- (Rs. Fifteen Lakh Seventy-Seven Thousand Eight Hundred and Fifty-Two) only is due and payable to the applicant herein. The respondent further states that the amount of liability is around Rs. fifteen lakhs towards the principal amount and the same is due and payable towards various invoices raised by the Operational Creditor. There is no default in payment of the amounts mentioned in the invoices. Since, the applicant has always agreed for more time to settle the amount and the respondent also settled various Bills during the extended time. Therefore, there is no default in making payment. The learned Counsel for the respondent also states that the Corporate Debtor herein was met with an unexpected fire accident in the factory premises that has caused considerable damage to the Corporate Debtor. Since the fire accident, that took place in December, 2019, the financial position of the Corporate Debtor is very bad and the Corporate Debtor is

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also running from pillar to post to offices of various insurance Companies and other authorities. The corporate debtor has also closed the unit. Even though the Corporate Debtor admits categorically that there is amount due and payable, there is no default in making payment to the applicant.

6. Heard both the parties. The debt and default are proved. The applicant herein has not proposed name of any Interim Resolution Professional. In view of the same, this Adjudicating Authority appoints **Mr. Saradindu Jena** having **Registration No.:** IBBI/IPA-002/IP-N00520/2017-2018/11622, is appointed as Interim Resolution Professional.

7. This application is **ADMITTED** by the following Order.

ORDER

- (i) This application filed by the Operational Creditor under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 is hereby **ADMITTED** for initiating the Corporate Insolvency Resolution Process against **M/s. Raipur Polymers Pvt. Ltd.** Moratorium Order is passed for a public announcement as stated in Section 13 of the Insolvency & Bankruptcy Code, 2016.

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(ii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-Section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following: -

- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

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- d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- (v) 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.
- (vi) The Order of Moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- (vii) 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.
- (viii) Necessary public announcement as per Section 15 of the Insolvency & Bankruptcy Code, 2016 may be made by the Resolution Professional upon receipt of the copy of this Order.

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(ix) **Mr. Saradindu Jena** residence of O.U. No. - 510, 5th Floor, Esplanade One, 721, Rasulgarh, Bhubaneswar – 751 010, Odisha, having **Registration No.:** IBBI/IPA-002/IP-N00520/2017-2018/11622 and **E-mail Id.:** ip.jena2017@gmail.com is appointed as Interim Resolution Professional registered with the ICSI Insolvency Professionals Agency for ascertaining the particulars of Creditors and convening a meeting of Committee of Creditors for evolving a Resolution Plan.

(x) We direct the Operational Creditor to deposit a sum of Rs. One Lakh with Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.

(xi) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petition to the IRP, otherwise coercive steps to follow.

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- (xii) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.
- (xiii) Interim Resolution Professional to file 1st Progress Report by **03.05.2021**. List the matter on **03.05.2021**.
- (xiv) Registry is hereby directed to communicate the Order under Section 9 (5) (i) of the Insolvency & Bankruptcy Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.
- (xv) Let the certified copy of the order be issued upon compliance with requisite formalities.

Sd

Shri Satya Ranjan Prasad
Member (T)

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Ms. Sucharitha R.
Member(J)

Signed on this, the 31st day of March, 2021.

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