

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

IB-1117/(ND)/2020

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

In the matter of:

M/s Kundan Mal Roop Chand Jewellers (P) Ltd.

Registered address at:
120, Gold Plaza, Gurudwara Road,
Karol Bagh, New Delhi- 110005

...Applicant/Operational Creditor

Versus

Delhi Diamonds Private Limited

Registered address at:
3318, Basement Bank Street,
Karol Bagh, New Delhi- 110005

...Respondent/Corporate Debtor

Coram:

SHRI. P.S.N. PRASAD, Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ, Hon'ble Member (Technical)

Counsel for Applicant: Mr. Abhishek Parmar Advocate
Counsel for Respondent: Mr. Gaurav Sarkar, Advocate

ORDER

Per SH. P.S.N. PRASAD, MEMBER (JUDICIAL)

Date: 03.05.2021

1. This is an application filed by the Applicant M/s Kundan Mal Roop Chand Jewellers (P) Ltd. Through its Authorized Representative Mr. Karan Singh Soni seeking to initiate corporate insolvency resolution process ("CIRP") under Section 9 of the Insolvency and Bankruptcy Code 2016 ("the Code") of the Respondent Delhi Diamonds Private Limited for the alleged default on the part of the Respondent in clearing the debt of Rs. 1,22,58,190/- (Rupees One Crore Twenty-Two Lakh Fifty-Eight Thousand One Hundred ninety only) towards the goods supplied by the Applicant. The details of transactions leading to the filing of this application as averred by the Applicant are as follows:

- i. The Applicant Company is engaged in the wholesale business of jewelry and loose diamonds. The applicant submits that the Respondent placed an order on 25.02.2020 of 910.34 CT of loose diamonds to the applicant.

- ii. That the applicant supplied the said loose diamonds on 01.03,2020 to the Respondent against which Invoice was raised amounting to Rs. 1,09,51,390. The applicant further submits that the payment against the Invoice raised had to be done on or before 07.03.2020.
- iii. That the amount in default became due from 07.03.2020 due to non-payment of the said invoice. The applicant submits that even after repeated reminders no clarity regarding payment of the dues was given by the Respondent.
- iv. The Applicant issued Demand Notice in the form of Form-3 under Section 8 of the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 dated 13.03.2020 calling upon the Respondent to clear the amount of default. That in pursuant to the Demand Notice the Respondent replied stating that he is lacking funds to clear the dues.

2. Consequent to the notice issued by this Tribunal, the Respondent filed its reply in which following submissions were made:

- i. That the Respondent placed an order of 310.34 CT of Loose Diamonds to the Applicant on 25.02.2020. That the applicant supplied the said order and raised an Invoice dated 01.03.2020 against the material supplied.
- ii. The Respondent further submitted that due to COVID-19 Pandemic worldwide and nationwide Lockdown imposed by the Central Government a huge impact was witnessed in trade and commerce due to which the Business of the Respondent has been impacted.
- iii. That the Respondent vide its reply to the Demand Notice dated 13.03.2020 reiterated that due to COVID-19 pandemic and stoppage of cash flow in the market the Respondent is unable to repay the dues as raised by the applicant.

iv. The Respondent further submitted that it has no money in his bank account to repay the outstanding dues that is owed to the Applicant.

3. We have heard the Ld. Counsels for the Operational Creditor and Corporate debtor and perused the averments made in the application as well as the documents enclosed with the application. The counsel for the Corporate debtor submitted that due to the Countrywide Lockdown amid COVID-19 Pandemic on 25.03.2020 the Corporate Debtor suffered huge losses and is not in a position to repay the debts. Whereas, the Corporate Debtor placed the order for the Loose Diamonds on 25.02.2020, the Operational Creditor supplied the material and raised the Invoice dated 01.03.2020 and the date of default as submitted by the Operational Creditor in Part IV of Form 5 is 07.03.2020 which is way before the announcement for the nationwide Lockdown amid COVID-19 Pandemic. Thus, the Corporate Debtor's plea for grant of time to repay the outstanding dues stands no merit.

4. On perusal of Application as well as the documents enclosed, the Operational Creditor has established the existence of debt and default on the part of the Corporate Debtor and the Corporate Debtor while availing the opportunity provided by this Tribunal clearly admitted the outstanding debt and did not raise any substantial dispute against it. In view of the above situation, this Adjudicating Authority **admits** this petition and **initiates CIRP** on the Respondent with immediate effect.
5. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

“(a) the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization 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 Respondent.

(2) The supply of essential goods or services to the Respondent as may be specified shall not be terminated or suspended or interrupted during moratorium period.

- (3) 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.
- (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.”

4. The interim resolution professional (“IRP”) proposed by the Applicant is Ms. Deepa Gupta, Address: B-2/110, Sector-16, Rohini, Delhi- 110085, Reg. No: IBBI/IPA-002/IP-N00867/2019-20/12801 and is being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.

(-Sd)

(DR. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

(-Sd)

(SH. P.S.N. PRASAD)
MEMBER (JUDICIAL)

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