

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. 5, MUMBAI BENCH**

**C.P. (IB) 236/MB/2020**

Under Section 8 & 9 of the IBC, 2016

In the matter of

**Shivkumar Suppliers**

Sai Pearl S. No. 24/2B, Old Mundwa  
Road, Near Laxmi Marble, Sainath  
Nagar, Khairadi, Haveli, Pune- 411014

.... Petitioner

v/s.

**Madhur Nourishment Products  
LLP**

C-713, BSEL Tech Park, Plot No. 39/5  
& 39/5A, Sector 30A, Opp. Vashi  
Railway Station, Vashi, Navi Mumbai-  
400703

.... Corporate Debtor

**Order Delivered on: 20.02.2020**

**Coram:** Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)  
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

**For the Petitioner:** Adv. Shirin Shaikh

**For the Corporate Debtor:** Adv. Pankaj Singh, Adv. Swapan Pradhan

**Per: Suchitra Kanuparthi, Member (J)**

**ORDER**

1. This Company Petition is filed by Shivkumar Suppliers of (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Madhur Nourishment Products LLP (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment of ₹31,64,606.52/- by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that the Petitioner supplied milk and milk tankers to the Corporate Debtor for manufacturing of milk powder and other ancillary milk products. The Petitioner raised invoices from 12.04.2018 to 23.03.2019 for total value of ₹ 89,71,606.52/- upon the Corporate Debtor pursuant to delivery of products and the Corporate Debtor made payment of only ₹58,07,000/- and hence,

there is ₹31,64,606.52/- due for payment. The Corporate Debtor failed and neglected to pay the amount due to the Petitioner.

3. On the account of non-payment of the due, the Petitioner issued demand notice dated 15.12.2019 in Form 3 under Section 8 of the I&B Code, 2016 to the Corporate Debtor demanding payment of ₹31,64,606.52/-. However, the Corporate Debtor failed to respond to the demand notice.
4. The Petitioner has annexed the copies of 11 invoices dated 12/04/2018, 07/06/2018, 16/08/2018, 20/09/2018, 30/10/2018, 15/11/2018, 30/12/2018, 10/02/2019, 08/03/2019, 19/03/2019 and 23/03/2019 issued by the Petitioner, copies of Challans for transfer showing dispatch details. Also, the Petitioner has annexed copy of ledger for financial year 1.04.2018 to 31.03.2019 of the Corporate Debtor and the bank statement of the Petitioner to show that no payment has been made by the Corporate Debtor towards the debt amount. The Petitioner has also enclosed challan for transport of milk, which was received and signed with seal by the Corporate Debtor to confirm the delivery of milk.
5. The Counsel for the Corporate Debtor through his reply to the Petition stated that due to unfavorable market conditions and adverse competitive environment, they could not repay the said debt amount.
6. During the hearing on 11.02.2020, the Counsel for the Corporate Debtor admitted the liability towards the principal as well as the default.
7. On the perusal of the above facts, it is clear that the Corporate Debtor has defaulted in paying the outstanding amounts under the invoices claimed by the Petitioner. Hence, there is clear debt and default.
8. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:
  - (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

(b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(d) that the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the CIRP or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under section 33, as the case may be.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Udaykumar Bhaskar Bhat, having email address udaybhat2805@gmail.com having Registration No. IBBI/IPA-001/IP/P-01425/2018-19/12234 as an Interim Resolution Professional to carry out the functions as mentioned under the Code.

9. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-  
Chandra Bhan Singh  
Member (Technical)

SD/-  
Suchitra Kanuparthi  
Member (Judicial)