

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

**CP (IB) 1332/MB/2020**

Under Section 9 of the I&B Code, 2016

In the matter of

**Supershine ABS Platers Private  
Limited**

A-5, Windsor CHS, Deshmukh  
Residency Complex, Shiv Vallabh  
Road, Ashokvan, Borivali (east),  
Mumbai – 400 066

...Petitioner

v/s

**Opal Luxury Time Products Limited**

Unit No. 5, Dangat Patil Nagar, S. No.  
82/3, Shivane, off NDA Road, Shivane,  
Pune – 411 023

...Corporate Debtor

Order Delivered on: 03.08.2021

**Coram:**

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri. Chandra Bhan Singh, Member (Technical)

**For the Petitioner:** Ms. Anjali Shahi, Advocate.

**For the Corporate Debtor:** Ms. Pratibha Rupnawar, Advocate.

*Per: Suchitra Kanuparthi, Member (J)*

**ORDER**

1. This is an application being CP(IB)1332/MB/2020 filed by **Supershine Abs Platers Private Limited**, Operational Creditor/Petitioner has furnished Form No. 5 under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 in the capacity of "Operational Creditor" by invoking the provisions of section 9 of Insolvency & Bankruptcy Code, 2016 (**Code**) against **Opal Luxury Time Products Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).

2. In the requisite Form, under the head "Particulars of Operational Debt" the total amount in default is stated to be Rs. 10,45,467/- (Rs. 6,92,514/- as a sum + Rs. 3,52,953/- as an interest @24% p.a.), The date of default is stated to be 09.01.2018.

#### **SUBMISSIONS BY THE PETITIONER**

3. A brief history of the transaction between the Petitioner and the Corporate Debtor is as follows. The Petitioner is in the business of manufacturing of watches, clocks and accessories related to it.

4. The Corporate Debtor placed orders to the Petitioner for supply of Opal clock rings (gold) with Lacquer. The Petitioner supplied the goods to the Corporate Debtor based on the orders raised by the Corporate Debtor during 09.01.2018 to 10.03.2018 and the Petitioner raised invoices accordingly.

5. The Petitioner raised total 6 invoices for aggregating amount of Rs. 9,11,190/- on the Corporate Debtor. The invoices are payable on immediate basis.

6. Thereafter, the Corporate Debtor has made payment of Rs. 2,18,676/- and the balance amount of Rs. 6,92,514/- was due. The

goods have been duly received by the Corporate Debtor and outstanding balance has also been duly acknowledged by the Corporate Debtor as outstanding as on 31.03.2019.

7. Thereafter, there were series of communications between the Corporate Debtor and the Petitioner through emails and telephone.

8. Since there was no actual payment was made by the Corporate Debtor, the Petitioner issued a demand notice dated 07.03.2020 on the Corporate Debtor under Section 8 of the Insolvency and Bankruptcy Code, 2016. The Corporate Debtor replied to the said notice on 12.03.2020 stating that their company is going through a lot of financial stress in the last 2 years and therefore have not been able to make payment of any outstanding dues, in spite of best efforts. The Corporate Debtor also mentioned that they are looking for some investor to bail out of the current situation.

**SUBMISSIONS BY THE CORPORATE DEBTOR IN REPLY**

9. The Corporate Debtor is in the business of manufacturing and marketing of wall clocks and table clocks. The Petitioner is a supplier to the Corporate Debtor.

10. The Corporate Debtor submits that the outstanding in the books of the Corporate Debtor towards the goods supplied by the Petitioner is only Rs. 6,92,514/-.

11. The Corporate Debtor desists the claim of the Petitioner of interest on the amount as it was a business deal and not a money lending transaction.

12. The Corporate Debtor informed the Petitioner about the financial issues faced by the Corporate Debtor company and asked for time to pay the dues of Rs. 6,92,514/-.

13. In February, 2020, the business of the Corporate Debtor was again hit by the covid 19 pandemic, and the plans of the Corporate Debtor company to raise funds and to remove cash flow problems, was hit badly, and it continue to be the same situation even now.

14. The Corporate Debtor is still looking for fresh investments in the Corporate Debtor company to pay all the debtors and also for working capital. The Corporate Debtor is also in talks with its bankers for restructuring or OTS for the bank liabilities.

15. The Corporate Debtor prays the time of 12 to 15 months be granted to the Corporate Debtor to repay the dues of Rs. 6,92,514/- to the Petitioner.

### **FINDINGS**

16. It is an undisputed fact that the Petitioner had supplied Opal clock rings (gold) with Lacquer based on the orders raised by the Corporate Debtor. The Petitioner further raised invoices for the Periods 09.04.2018 to 31.03.2019 which have been duly received by Corporate Debtor. The Petitioner raised invoices aggregative of Rs. 9,11,190/- to Corporate Debtor and the Corporate Debtor made a payment of Rs. 2,97,676/- and hence the outstanding amount of Rs. 6,91,514/- remain payable by the Corporate Debtor.

17. The said invoice were to be paid on immediate basis and contain interest clause wherein the Petitioner could claim interest @ 24% in case delayed payment. Hence an amount of Rs 3,52,953.91/-

towards interest was claimed. The total amount outstanding of Rs. 10,45,467.90/-. The debt became due on 09.01.2018.

18. The Petitioner has issued demand notice under section 8 claiming entire amount due and the Corporate Debtor replied to said demand notice stating that they were unable to pay the monies and were facing financial distress. The Corporate Debtor filed reply and sought time of 12 to 15 months to pay the outstanding balance. Therefore, in view of the facts of the present case which clearly demonstrate the debt which was due for payment under the invoices raised by the Petitioner and the admission of liability by the Corporate Debtor and express declaration of inability of non-payment due to financial crisis, this petition is admitted.

19. The application filed by the Petitioner is on proper Form 5, as prescribed under the Adjudicating Authority Rules and is complete.

20. The Applicant has proposed name of Mr. Vithal M. Dahake, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N000117/2017-2018/11296] as Interim Resolution Professional, to carry the functions of Interim Resolution Professional as mentioned under I&B Code.

21. The Application under sub-section (2) of Section 9 of I&B Code, 2016 filed by the Petitioner for initiation of CIRP in prescribed Form5, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing operational debt of more than rupees one lakh against the Corporate Debtor and its default is also proved. Accordingly, the application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate

insolvency resolution process against the Corporate Debtor deserves to be admitted.

22. This application is filed under Section 9 of I&B Code, 2016, filed by **Supershine Abs Platers Private Limited**, against **Opal Luxury Time Products Limited**, for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
  - 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 activity 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 possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- IV. That 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 Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. That this Bench at this moment appoints Mr. Vithal M. Dahake, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N000117/2017-2018/11296] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
- VII. Having admitted the Petition/Application, the provisions of Moratorium as prescribed under Section 14 of the Code shall be operative henceforth with effect from the date of appointment of IRP shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
- VIII. That as prescribed under Section 13 of the Code on declaration of Moratorium the next step of Public Announcement of the Initiation of Corporate Insolvency Resolution Process shall be

carried out by the IRP immediately on appointment, as per the provisions of the Code.

- IX. The appointed IRP shall also comply the other provisions of the Code including Section 15 and Section 18 of The Code. Further the IRP is hereby directed to inform the progress of the Resolution Plan to this Bench and submit a compliance report within 30 days of the appointment. A liberty is granted to intimate even at an early date, if need be.

23. The Petition is hereby "**Admitted**". The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of order.

SD/-

**Chandra Bhan Singh**  
Member (Technical)

SD/-

**Suchitra Kanuparthi**  
Member (Judicial)