

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP (IB) No. 635/9/NCLT/AHM/2019

**Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL , AHMEDABAD BENCH ON 08.12.2020**

Name of the Company: Mr. Himanshubhai Pravinbhai Pandya
V/s
M/s. Bansal Shipping Pvt Limited

Section: Section 9 the Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**


**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

Dated this the 8th day of December, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT NO. 1**

CP (IB) No.635/9/NCLT/AHM/2019

(Application for initiating Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016)

In the matter of :

Mr. Himanshubhai Pravinbhai Pandya

Block No. 173, Shrinathji Nagar-3,
Bharatnagar, Bhavnagar-364002

..Operational Creditor

V/s.

**M/s. Bansal Shipping Private
Limited**

Ghanchivad Huseni Chowk,
Indiranagar, Bhavnagar,
Gujarat-364001

...Corporate Debtor

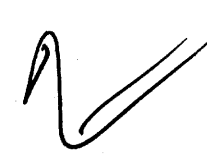
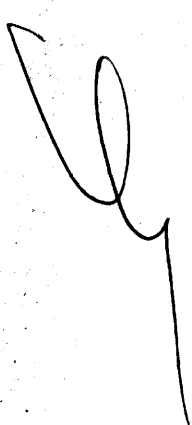
Order reserved on 07.12.2020
Order pronounced on 08.12.2020

Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

Learned PCS Mr. Vinit Nagar for the Operational Creditor.

No one appeared for the Corporate Debtor.



ORDER**[Per: VIRENDRA KUMAR GUPTA, MEMBER(T)]**

1. This Application is filed under **Section 9** of the Insolvency & Bankruptcy Code, 2016 by the Operational Creditor **Mr. Himanshubhai Pravinbhai Pandya** to initiate Corporate Insolvency Resolution Process against the Corporate Debtor **M/s. Bansal Shipping Private Limited**. The outstanding principal sum has been stated of **Rs. 5,25,000/-** (Rupees Five lac Twenty Five thousand only).
2. The brief facts of the case are as under :
 - 1) The Operational Creditor provided labour work and Invoice No. 1 dated 30.10.2018 had been raised for sum of Rs. 5,25,000/- which remained unpaid.
 - 2) Notice under Section 8 a.w. requisite documentary evidence was served on the Corporate Debtor which fact has been acknowledged by the Corporate Debtor also.

- 3) The Affidavit under Section 9(3) (b) of the Insolvency & Bankruptcy Code, 2016 has been filed, wherein, it has been stated that no notice of dispute or payment of the said outstanding amount has been conveyed.
- 4) Learned PCS for the Operational Creditor appeared and narrated this factual position. It was pleaded that name of IRP has also been proposed. The Corporate Debtor has not disputed the amount which is due and payable both in law and fact. The application is otherwise, complete and defect free, hence, liable to be admitted.
- 5) No one appeared for the Corporate Debtor, however, the debt has been admitted. It has also been stated that Company was not in business and, hence, was not in a position to make the payment of this amount.
- 6) In view of admitted fact of the amount being outstanding and payable in law and the

application being complete in all aspect, we are of the view that, this petition needs to be admitted.

- 7) The name of the IRP has been proposed as the same is not mandatory in case of application filed under Section 9 of the Insolvency & Bankruptcy Code, 2016, hence, we appoint the same person to act as 'IRP', against whom no disciplinary proceedings appear to be pending. Accordingly, we admit this application and order as under :

ORDER

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- (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 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.*

2. 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 Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

3. The Operational Creditor has proposed the name of the Interim Resolution Professional(IRP). Therefore, this Adjudicating Authority hereby appoint **Ms. Bhavi Shreyans Shah, PCA, IBBI/IPA-001/IP-P00915/2017-2018/11521, residing at C-201, Embassy Appt., Nr. Ketav**

Petrolpump, Dr. V.S. Road, Ahmedabad-380015

to act as an IRP under Section 13(1) (c) of the Code.

4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

5. This Adjudicating Authority direct the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for

submission of claims under Section 15 as required by Section 13(1) (b) of the Code.

6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. **The Operational Creditor is directed to pay an advance of Rs. 50,000/- (Rupees Fifty Thousand Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report.**

8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.
9. Accordingly, **CP(IB) No. 635/9/NCLT/AHM/2019 is allowed and stands disposed of .**
10. The matter to be listed on 11.01.2021 for further consideration.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Signed on this, the 8th December, 2020.