

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
Court 2**

(MP) CP(IB) 6 of 2020

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
Mr. VIRENDRA KUMAR GUPTA, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH AT
AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.03.2021**

Name of the Company: Chandraudai Automobiles Pvt Ltd
V/s
Rajpal Abhikaran Pvt Ltd

Section 9 IBC, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

**ORDER
(through video conferencing)**

Mr. Parth Shah, advocate, appeared on behalf of the Petitioner.

Mr. Nilesh Udernani, advocate, appeared on behalf of the Respondent.

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


VIRENDRA KUMAR GUPTA
MEMBER TECHNICAL
Dated this the 26th day of March, 2021


MANORAMA KUMARI
MEMBER JUDICIAL

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 2**

(MP) CP (IB) No.6/9/NCLT/AHM/2020

*(An application filed under Section 9 of
the Insolvency and Bankruptcy Code, 2016)*

In the matter of :

M/s. Chandraudai Automobiles Private Limited

NH-62, Main Pali Road,
Kudi Bhagtasni,
Jodhpur,
Rajasthan – 342005.

.....Operational Creditor

Versus

M/s. Rajpal Abhikaran Private Limited

CIN: U45200MP2010PTC023852
E-2/88, Area Colony
Bhopal 462 016
Madhya Pradesh

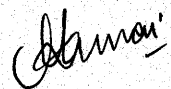
.....Corporate Debtor

**Order reserved on 19.03.2021
Order Pronounced on 26.03.2021**

**Coram: MANORAMA KUMARI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

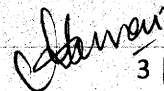
Learned Counsel Mr. Parth Shah, for the Operational Creditor.
Learned PCS Mr. Nilesh Udernani, for the Corporate Debtor.



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

1. This application under Section 9 of the Insolvency and Bankruptcy Code, 2016 has been filed by the Operational Creditor, M/s. Chandraudai Automobiles Private Limited to initiate Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor, M/s. Rajpal Abhikaran Private Limited. The amount of default has been stated at Rs.69,34,699/-. The date of default has been claimed on 07.11.2017.
2. The facts in brief are that the Operational Creditor had sold and supplied three (03) nos. of cars to the Corporate Debtor. For which, three invoices were raised on 17.11.2017 and 18.11.2017 respectively. The total value of these vehicles is Rs.88,85,100/- against which, the payment of Rs.19,50,400/- had been made. The balance amount remained unpaid. Failing to realize the outstanding amount, the Operational Creditor served a notice of demand under Section 8 of the Insolvency and Bankruptcy Code, 2016 on the Corporate Debtor on 06.09.2019. Proof of such service has also been brought on record.
3. The Learned Counsel for the Operational Creditor appeared and submitted/narrated these basic facts and drew our contention to documentary evidence produced on record to substantiate such claim.

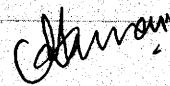
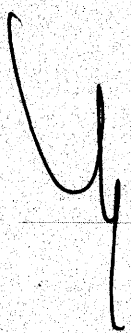
4. It was claimed that the amount which was due and payable and it was further claimed that the Corporate Debtor has also admitted its liability. The Learned Counsel for the Corporate Debtor also concurred with such submissions made on behalf of the Operational Creditor. At this stage, a query was raised, as to whether this petition was filed in collusive manner. The Corporate Debtor made a submission that there was no relationship between the Operational Creditor or the Corporate Debtor and other application filed against the Corporate Debtor under Section 7 was also pending and listed even today. We verified this fact from the cause list. Thus, the factor of collusiveness gets adequately rebutted.
5. The name of the Interim Resolution Professional ("IRP") has been proposed, though, it is not mandatory in respect of application filed under Section 9 of the I.B. Code, 2016. However, as per the provision of Section 16(3) of the I.B. Code, 2016, the Adjudicating Authority is to appoint such proposed person. The consent of such proposed IRP is also on record and there is no material on record to show that any disciplinary proceedings are pending against such proposed IRP.
6. This application is complete in all respects and defect free. It also complies with the requirements of provision of relevant provisions of the Insolvency and Bankruptcy Code, 2016. The amount of debt is more than the threshold limit prescribed for the initiation of the CIRP



against the Corporate Debtor. Accordingly, we admit this application and order as under:

ORDER

1. Corporate Debtor **M/s. Rajpal Abhikaran Private Limited** is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 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;

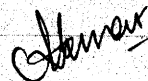


(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

3. 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.

4. We hereby appoint Ms. Teena Saraswat Pandey, having Registration No. IBBI/IPA-001/IP-P00652/2017-2018/11126, Address: 387F, 114 Scheme Part 1, Behind Diksha Boys Hostel, Sant Nagar, Indore, Madhya Pradesh – 452010, Email ID teenasaraswat@yahoo.co.in to act as an IRP under Section 13(1) (c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:

5. 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

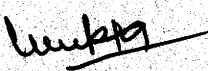


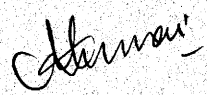
personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate 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.

6. 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.
7. 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. 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. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

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. Insolvency Resolution Professional / Resolution Professional to file progress report through IA so that which can be taken on record by this Authority.


(Virendra Kumar Gupta)
Member (Technical)


(Manorama Kumari)
Member (Judicial)

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