

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH-II, CHENNAI**

IBA/1115/2019 filed under  
Section 9 r/w Rule 6 of  
Insolvency & Bankruptcy  
Code, 2016

In the matter of **M/s. Fomra Sales Private Limited**

**M/s. Nangalwala Industries Private Limited**

Rep. by its Authorized Representative

Mr. Subhash Agarwal,

LU-8, Morya Enclave,

Pitampura, New Delhi-110 034

---Operational Creditor

-Vs-

**M/s. Fomra Sales Private Limited**

(CIN No.U52599TN1996PTC036619)

Fomra House, New No. 261,

Old No. 126, Mint Street,

Sowcarpet, Chennai-600 079

---Corporate Debtor

IA/1141/IB/2020 filed under section  
60(5) of the Insolvency and  
Bankruptcy Code, 2016

**M/s. Fomra Sales Private Limited**

(CIN No.U52599TN1996PTC036619)

Fomra House, New No. 261,

Old No. 126, Mint Street,

Sowcarpet, Chennai-600 079

---Applicant/Corporate Debtor

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IBA/1115/2019

IA/1141/IB/2020

In the matter of M/s. Fomra Sales Private Limited



Vs.

**M/s. Nangalwala Industries Private Limited**

Rep. by its Authorized Representative

Mr. Subhash Agarwal,

LU-8, Morya Enclave,

Pitampura, New Delhi-110 034

---Respondent/Operational Creditor

CORAM:

**R. SUCHARITHA, MEMBER (JUDICIAL)**

**B. ANIL KUMAR, MEMBER (TECHNICAL)**

For the Applicant : *Shri. Arun Karthik Mohan, Advocate*  
*Shri. Suhrith Parthasarathy, Advocate*

For the Respondent : *Shri. Roshan Atiq, Advocate*  
*Shri. Ashwin, Advocate*

**COMMON ORDER**

**Per: R. SUCHARITHA, MEMBER (JUDICIAL)**

**Order Pronounced on: 27.04.2021**

This application is filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 ("IBC, 2016") by the Operational Creditor i.e., **M/s. Nangalwala Industries Private Limited**, Represented by its Authorized Representative Mr. Subhash Agarwal seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor i.e., **M/s. Fomra Sales Private Limited**. By Board

IBA/1115/2019

IA/1141/IB/2020

In the matter of M/s. Fomra Sales Private Limited

Resolution dated 15/07.2019, the Applicant has authorized Mr. Subhash Agarwal to represent the Applicant Company. The Registered Office of the Corporate Debtor Company is at Fomra House, New No. 261, Old No. 126, Mint Street, Sowcarpet, Chennai-600 079, (CIN No.U52599TN1996PTC036619).

2. The Company was incorporated on 24.09.1996. The Applicant submits that the Applicant supplied wires and cables to the Corporate Debtor and raised invoices on the Corporate Debtor. The Corporate Debtor failed to make payment under various invoices. Hence, the Applicant/Operational Creditor filed a civil suit before the Hon'ble Additional District & Sessions Judge, No.3, Alwar, Rajasthan in C.S. No. 29 of 2014. The Hon'ble Court passed a judgment and decree dated 23.09.2015 against the Corporate Debtor herein for a sum of Rs.76,30,716/-. The Applicant/Operational Creditor thereafter issued Demand Notice dated 05.02.2018 under IBC.

3. The Applicant/Operational Creditor filed IBA/1095/IB/2018 before this Adjudicating Authority for initiation of CIRP against the

Corporate Debtor. Pending this case, on 10.11.2018, both the parties entered into Consent Terms whereby the Corporate Debtor agreed to pay sum of Rs.76,30,716/- being the principal outstanding and another sum of Rs.45,78,430/- towards interest to the Applicant/Operational Creditor. Based on the Consent Terms, this IBA/1095/IB/2018 was withdrawn vide order dated 13.11.2018. However, the Applicant submits that the Corporate Debtor failed to honour the terms and conditions of the Consent Terms. Hence, the Applicant/Operational Creditor issued another Demand Notice dated 30.05.2019. In response to that, the Corporate Debtor sent reply dated 19.06.2019. However, since payment was due and payable, the Applicant/Operational Creditor herein filed this application against the Corporate Debtor demanding a sum of Rs.50,28,439/- together with further interest at the rate of 18% per annum.

4. In response to this, the Corporate Debtor has filed IA/1141/IB/2020. The Corporate Debtor submits that the Consent Terms dated 10.11.2018 were arrived between the Applicant and the



Corporate Debtor. Thereafter, a Memorandum of Compromise dated 02.03.2020 was entered between the Applicant and the Corporate Debtor. Subsequent to the Memorandum of Compromise dated 02.03.2020, a sum of Rs.5,00,000/- was paid to the Applicant/Operational Creditor on 03.03.2020. The Corporate Debtor further submits that since thereafter on 03.03.2020, due to COVID-19 pandemic, the Corporate Debtor was unable to make further payment. Hence, this IA/1141/IB/2020 has been filed by the Corporate Debtor seeking time to settle the payment based on the Memorandum of Compromise dated 02.03.2020. This IA was filed on 20.10.2020. Till the date of this order, no payment was made by the Corporate Debtor to the Applicant/Operational Creditor.

5. We have read the pleadings and documents filed in support of this application. Heard both the parties. Based on the invoices mentioned above, we are inclined to ADMIT this application. The Applicant/Operational Creditor has not proposed the name of the Interim Resolution Professional. Hence, this Adjudicating Authority,



based on the list furnished by IBBI, hereby appoints **Mr. B. Sathrukkannan**, having Regn. No.IBBI/IPA-001/IP-P00301/2017-18/10545 as Interim Resolution Professional. The Interim Resolution Professional will be paid Rs.1,00,000/- towards initial expenses by the Applicant.

6. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 (SARFAESI Act);

(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.

(II) 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.

(III) 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.

- (IV) That the order of moratorium shall have effect from 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 or passes an order for liquidation of corporate debtor under section 33, 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 the Code.
- (VI) That this Bench hereby appoints **Mr. B. Sathrukkannan** as **Interim Resolution Professional (Reg. No. IBBI/IPA-001/IP-P00301/2017-18/10545)**, **E-mail: [prathyumnannan2002@yahoo.com](mailto:prathyumnannan2002@yahoo.com)**, with his consent to carry out the functions as mentioned under The Insolvency & Bankruptcy Code.

7. Accordingly IA/1141/IB/2020 stands **closed**.





8. Hence, for the reasons mentioned supra, this IBA/1115/2019 stands **admitted**.

9. **The Registry** is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-sd-  
**(ANIL KUMAR B)**  
MEMBER (TECHNICAL)

-sd-  
**(R. SUCHARITHA)**  
MEMBER (JUDICIAL)

vs