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**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**NEW DELHI (COURT NO. IV)**

**(IB)-275(ND)/2018**

**(Under Section 9 of the Insolvency and Bankruptcy Code, 2016  
Read with Rule 6 of the Insolvency and Bankruptcy (Application  
to Adjudicating Authority) Rules, 2016)**

**IN THE MATTER OF:**

**M/S KHANDELWAL BUSAR INDUSTRIES PRIVATE LIMITED**

**(Formerly known as Kochar Agro Industries Pvt. Ltd.)**

**...APPLICANT**

**VERSUS**

**M/S MANSFIELD CABLES COMPANY LIMITED**

**...RESPONDENT**

**CORAM:**

**DR. DEEPTI MUKESH**

**MEMBER (Judicial)**

*Mr. Rakesh Kumar i/b*

**For the Applicant: Mr. Ravi Kumar Adv.**

**For the Corporate debtor:**



**MEMO OF PARTIES**

**M/S KHANDELWAL BUSAR INDUSTRIES PRIVATE LIMITED**

**(Formerly known as Kochar Agro Industries Pvt. Ltd.)**

CIN: U00000DL1981PTC011611

912 B, HEMKUNT CHAMBER 89, NEHRU PLACE,

NEW DELHI-110019

**...APPLICANT**

**VERSUS**

**M/S MANSFIELD CABLES COMPANY LIMITED**

CIN: U31101DL2008PLC177198

E-4/200, AMAR COLONY, LAJPAT NAGAR,

NEW DELHI-110024

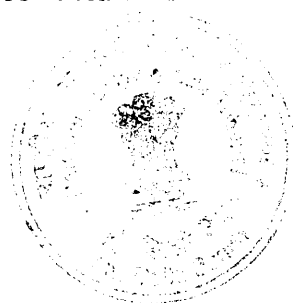
**...RESPONDENT**



## **ORDER**

**Delivered on: 15.05.2018**

1. The present application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/S Khandelwal Busar Industries Private Limited (Formerly known as Kochar Agro Industries Private Limited) (for brevity 'Applicant') with a prayer for initiation of Corporate Insolvency process against M/S Mansfield Cables Company Limited (for brevity 'corporate Debtor').
2. The applicant was originally incorporated as Kochar Agro Industries Private Limited under the provision Company Act, 1956. Subsequently, the name of the applicant has been changed from Kochar Agro Industries Private Limited to M/S Khandelwal Busar Industries Private Limited on 13.01.2017 as per the Certificate of Incorporation pursuant to Rule 29 of the Companies



(Incorporation) Rules, 2014 at Annexure P, having CIN U00000DL1981PTC011611 as per Master Data at Annexure P.

3. The applicant is company having registered office at 912 B, Hemkunt Chamber 89, Nehru Place, New Delhi-110019.
4. The applicant has duly authorized Mr. Ramesh Khandelwal, Director of the company, to file the present application by the resolution passed in the meeting of Board of Directors dated 19.12.2017 of the company at Annexure L.
5. The applicant is engaged in business of manufacturer and supplier of four-wheeler spare parts:-oil filters, piston ring casting gaskets, hydraulic brakes, synchronizer rings, air brakes etc.
6. The corporate debtor is incorporated under the provisions of the Company Act, 1956, having CIN U00000DL1981PTC011611 as per Master Data at Annexure P.



7. The company is having its registered office at E- 4/200 Amar Colony, Lajpat Nagar, New Delhi-110024.
8. The corporate debtor is engaged in business of manufacturing insulated Cables, Wires and Conductors.
9. In the instant case the applicant was supplying G.I. Wires and G.I. Strips from 28/07/2016 to corporate debtor and issued various invoices whose details are invoice no. 220 dated 04.08.2016 for the amount of Rs.1,55,347/-; invoice no. 270 dated 02.09.2016 for the amount of Rs.2,52,327/-; and invoice no. 419 dated 17.12.2016 for the amount of Rs.5,97,492/-. The total goods supplied amounted to Rs. 22,66,441/- out of which the applicant received the last payment of Rs.12,61,275/- on 04.01.2017 leaving balance Rs. 10,05,166/- outstanding as per the particulars at Annexure D.
10. The applicant claims that the default first occurred on 03.10.2016 when the remaining unpaid amount became due of Rs. 10,05,166/-, alongwith the interest at the rate of 14% of Rs. 1,39,364/- totaling to Rs. 11,44,530 as shown in computation of default at Annexure H.



12. The applicant has issued a Demand Notice under section 8 of the Code, 2016 dated 27.12.2017 in Form 3 to Corporate Debtor and Form 4 its Directors which were duly received by them at Annexure O. Further it is stated that the corporate debtor has neither paid the money nor raised any dispute towards the liability of Rs. 11,44,530 as claimed by the applicant.
13. The Bank, maintaining account of the Applicant, has confirmed vide its certificate dated 05.03.2018 that Rs. 12,61,275/- has been received from corporate debtor between 01.04.2016 to 05.03.2018 at Annexure K.
14. The bank account details of the applicant reflected last payment received against the invoice no. 269 on 07.01.2017 of Rs. 3,04,947/- page no. 52-62 of the application.
15. The Applicant has filed an affidavit dated 13.03.2017 affirming that in respect of the amount claimed or any part thereof, the Applicant has not received, nor had any person, on its behalf, had received in any manner the amount due to them under section 9(3)(b) of the Code,



2016. Further it has been confirmed that no dispute is raised by the corporate debtor in relation to the unpaid operational debt.

15. No one has appeared, on behalf of corporate debtor, in spite of notice issued by the order dated 20.03.2018, by the Tribunal which was sent by Dasti and duly received by corporate debtor as per service affidavit filed on 13.03.2017 by the applicant.
16. The applicant has submitted the email sent by corporate debtor admitting the claim of applicant dated 23.10.2017 in response to email sent by applicant at page 46-48 of the Application.
17. The registered office of corporate debtor is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
18. The amount of default exceeds Rs. 1,00,000/- as per the requirement under section 4 of the Code, 2016. Hence, this application is within the purview of section 9 of the Code, 2016.



19. The default in payment of operational debt first occurred on 03.10.2016 and therefore present application is not barred by law of limitation.
20. In the given facts and circumstances, the present application is complete and the applicant is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfillment of requirements under section 9(5) of the Code. Hence, the present application is admitted.
21. Applicant has named Mr. Sunil Kumar Agarwal, an Interim Resolution Professional, registered with ICSI IPA having registration number IBBI/IPA-002/IP-N00081/2017-2018/10222 whose written communication in form no. 2 as per the Rules laid under the Code, 2016 at Annexure N of the Application.
22. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor prohibiting all of the following:





extracted hereunder shall follow in relation to the Corporate Debtor prohibiting all of the following:

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 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 the possession of the corporate debtor.



However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

i. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

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

24. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process, provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from



the date of such approval or liquidation order, as the case may be.

25. Based on the above terms and conditions, the Application stands admitted in terms of Section 9(5) of IBC, 2016. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further the IRP above named be also furnished with copy of this order forthwith by the Registry.



**(DR. DEEPTI MUKESH)**

**MEMBER (JUDICIAL)**

*16.5.2018*  
Registrar  
National Company Law Tribunal  
New Delhi

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