

**IN THE NATIONAL COMPANY LAW TRIBUNAL
 “CHANDIGARH BENCH, CHANDIGARH”
 (Exercising powers of Adjudicating Authority
 under the Insolvency and Bankruptcy Code, 2016)**

CP (IB) No.337/Chd/Hry/2018

**Under Section 9 of the
 Insolvency and Bankruptcy
 Code 2016.**

In the matter of:

Suresh Kumar Rakesh Kumar
 through its proprietor Mr. Rakesh Goyal
 New Anaj Mandi, Narwana, Jind,
 Haryana-126116

.... Petitioner/Operational Creditor

And

NavJyoti Agro Foods Private Limited
 having its registered office at,
 3 KM Mile Stone, Karnal Kaithal Road
 Nissing, Haryana-132024
 (CIN: U15122HR2011PTC043338)

.... Respondent/Corporate Debtor

Order delivered on 12.02.2019

**Coram: Hon’ble Mr.Justice R.P.Nagrath, Member (Judicial)
 Hon’ble Mr.Pradeep R.Sethi, Member (Technical)**

For the Petitioner : Mr. Vaibhav Sahni, Advocate

For the Respondent : 1. Mr. Nahush Jain, Advocate
 2. Mr. Arrora Vishwas Kumar, Advocate

Per: R.P. Nagrath, Member (Judicial)

ORDER (Oral)

The instant petition filed by ‘Operational-Creditor’ under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity ‘the Code’) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating

Authority) Rules, 2016 (for brevity 'the Rules') for initiating the insolvency resolution process was admitted on 06.02.2019. The matter was fixed for today for passing the formal order of declaring moratorium and for appointment of Interim Resolution Professional.

2. In view of the above, we declare the Moratorium in terms of sub-section (1) of Section 14 of the code as under:-

- “(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.”*

3. It is further directed that 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. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.

4. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or pass an order for liquidation of corporate debtor under Section 33 as the case may be.

5. Under sub-section (4) of Section 9 of the Code the operational creditor may propose the name of Resolution Professional to be appointed as Interim Resolution Professional but it is not obliged to do so. But in this case the petitioner has proposed the name of Mr. Tarun Batra, an insolvency professional having registration No.IBBI/IPA-001/IP-P00572/2017-2018/11013 to be appointed as Interim Resolution Professional who has furnished the written communication in Form-2 which was found in order as observed in the order dated 06.02.2019.

6. The Law Research Associate of this Tribunal has checked the credentials of Mr. Tarun Batra and there is nothing adverse against him. In view of the above, the following directions are issued in respect of the appointment of the Interim Resolution Professional:-

- i) Appoint Mr. Tarun Batra, registered insolvency professional bearing Registratio/IPA-001/1P-P00572/2017-2018/11013 Mobile No.9729870010 email ID: batratarun@gmail.com as Interim Resolution Professional.
- ii) The term of appointment of Mr. Tarun Batra shall be in accordance with the provisions of Section 16(5) of the Code;
- iii) In terms of Section 17 of 'the Code', from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the 'Corporate Debtor' shall

report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the 'Code', including taking control and custody of the assets over which the 'Corporate Debtor' has ownership rights recorded in the balance sheet of the 'Corporate Debtor' etc. as provided in Section 18 (1) (f) of the 'Code'. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the 'Corporate Debtor';

- iv) The Interim Resolution Professional shall strictly act in accordance with the 'Code', all the rules framed thereunder by the Board or the Central Government and in accordance with the 'Code of Conduct' governing his profession and as an Insolvency Professional with high standards of ethics and moral;
- v) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the 'Code' read with Section 15

calling for the submission of claims against 'Corporate Debtor';

- vi) It is hereby directed that the 'Corporate Debtor', its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the 'Corporate Debtor' as a going concern and extend all cooperation in accessing books and records as well as assets of the 'Corporate Debtor';
- vii) The Interim Resolution Professional shall after collation of all the claims received against the corporate debtor and the determination of the financial position of the corporate debtor constitute a committee of creditors and shall file a report, certifying constitution of the committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the committee within seven days of filing the report of constitution of the committee; and
- viii) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

8. In view of the proviso to Section 5(12) of the Code as inserted by way of amendment by Act 26 of 2018 w.e.f. 06.06.2018, the insolvency commencement date shall be w.e.f. today.

A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order and order

dated 06.02.2019 to the Interim Resolution Professional forthwith at his e-mail address. The Registry is also directed to send copies of both these orders to the Interim Resolution Professional at his email address forthwith.

Sd/-
(Pradeep R. Sethi)
Member (Technical)

Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

Feb., 12, 2019
Anchal