

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No. 3065/I&BP/2018

Under section 9 of the IBC, 2016

In the matter of

M/s. Galaxy Ceramic Studio

508/510, Maulana Azad Road, Shop No. 4,

Near Gol Deval Temple, Mumbai-400004

....Petitioner

v/s.

M/s. Passion for Lifestyles Private Limited

1307, Dalamal Towers, A-Wing, Free Press Journal

Marg, Nariman Point,

Mumbai-400021

....Respondent

Order delivered on: 18.02.2019

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : Advocate Seema J. Verma i/b Adv. R. R. Verma

For the Respondent : Advocate Vikas Mishra

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by M/s. Galaxy Ceramic Studio (hereinafter called "Petitioner") against M/s. Passion for Lifestyles Private Limited (hereinafter called "Corporate Debtor") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor alleging that Corporate Debtor committed default in making payment for the invoices raised from 26.05.2017 to 29.06.2018 to the extent of Rs. 12,94,506/- which is inclusive of interest calculated @12% p.a. on the delayed payments by invoking the provisions of Section 9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petition reveals that the Petitioner supplied certain building materials to the Corporate Debtor and raised invoices and the balance as on 29.06.2017 is Rs. 11,55,809/- and the interest on the delayed payment @ 12% p.a. works out to Rs. 1,38,697/-, totaling to a sum of Rs. 12,94,506/- is claimed in the Petition. The

Petitioner has sent Demand Notice on 18.04.2018 but there was no reply from the Corporate Debtor to the said Demand Notice.

3. The Corporate Debtor filed a reply stating that, they have to receive payment from one of their debtors, i.e M/s Gourmet Renaissance Pvt. Ltd. against whom Insolvency proceedings are pending for adjudication before NCLT, Mumbai. They submit that, they are not a willful defaulter and due to the circumstances which were beyond their control, they could not make the payment to the Petitioner. They further submit that, on receipt of payment from their above mentioned debtor they will make the payment to the Petitioner. The Corporate Debtor neither disputed the liability nor the default and hence the debt and default are proved.
4. This Bench having been satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring Moratorium with the directions as mentioned below:
 - (a) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
 - (b) 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.
 - (c) 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.
 - (d) That the order of moratorium shall have effect from 18.02.2019 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.
 - (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
 - (f) That this Bench hereby appoints Mr. Kashinath Ratnoba Palekar, residing 201, Amartaru 3, Opp. Pinky Cinema, New Nagardas X Road, Andheri East, Mumbai - 400069 having Registration No. IBBI/IPA-002/IP-N00613/2018-19/11983, email id: gopi63.ip@gmail.com as an interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

5. Accordingly, this Petition is admitted.
6. The Registry is hereby directed to communicate this order to both the parties and also to the Interim Resolution Professional immediately.

Sd/-

V. Nallasenapathy
Member (Technical)

sd/-

Bhaskara Pantula Mohan
Member (Judicial)