

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

CP (IB) No.304/Chd/Hry/2018

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

In the matter of:

M/s Shankar Nutricon Private Limited
 having its registered office at
 Plot No.64, Scheme No.97, Reti Mandi,
 (Opp. Ocean Motors), Indore-452001,
 Madhya Pradesh
 (CIN No.U15400MP2009PTC021995)

...Petitioner-Operational Creditor

Versus

M/s Hygiene Feeds & Farms Private Limited
 having its registered office at
 Village Adiyana, Teshil Madlauda,
 Panipat, Haryana-132113
 (CIN No.U01210HR2010PTC040500)

...Respondent-Corporate Debtor

Order delivered on 31.01.2019

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

For the Petitioner : Mr. Gursheer Singh Bhandal, Advocate

For the Respondent : None

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 24.01.2019. 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. In the instant case also the operational creditor has not proposed the name of any Resolution Professional to be appointed as Interim Resolution Professional. Section 16(3)(a) of the Code says that where the application for corporate insolvency resolution process is made by an operational creditor and –

“a) *no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;*

b) *x x x x x”*

Sub-section (4) of Section 16 says that the Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

6. In this regard a letter bearing File No. 25/02/2018-NCLT dated 28.12.2018 has been received from the National Company Law Tribunal, New Delhi forwarding therewith a copy of letter No. IBBI/IP/ EMP/ 2018/02 dated 25.12.2018 along with the guidelines and the panel of resolution professionals approved for NCLT, Chandigarh Bench for appointment as IRP or Liquidator. The panel is valid for six months from 01.01.2019 to 30.06.2019. We select Ms. Karuna Sharma appearing at Serial No.64 of the panel to be appointed as Interim Resolution Professional.

7. The Law Research Associate of this Tribunal has checked the credentials of Ms. Karuna Sharma and there is nothing adverse against her.

In view of the above, the following directions are issued in respect of the appointment of the Interim Resolution Professional:-

- i) Appoint Ms. Karuna Sharma, registered insolvency professional bearing Registration No.IBBI/IPA-002/IP-N00340/2017-18/10944 Mobile No.9871145777 email ID: sharma.karuna@gmail.com as Interim Resolution Professional.
- ii) The term of appointment of Ms. Karuna Sharma 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 24.01.2019 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)

Jan., 31, 2019
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