

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

C.P. No.4290/I&BP/2018

Under section 8 &9 of the IBC, 2016

In the matter of

M/s. Real Soya Enterprises

172, Vinay Nagar, RTO Road, Indore-

452009, Madhya Pradesh

.... Petitioner

v/s.

M/s. Sakar Poultry Private Limited

Office No. 4A, Visionnaire, S. no. 232/1 & 2

Plot No. 121 and 122, Sakorenagar Society,

Lohegaon, Pune 411014, Maharashtra

.... Respondent

Order delivered on: 06.03.2019

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

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : **Mr. UlhasShetty, PCS**

For the Respondent: Mr. Rahul Sahasrabuddhe, PCS

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by Real Soya Enterprises (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process ("CIRP") against Sakar Poultry Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 28.04.2018 in making payment to the extent of Rs. 1,07,50,809/ which is inclusive of interest by invoking the provisions of Sections 8 &9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petitioner submits that they have supplied blended oil and solvent extracted crude veg rice bran oil to the Corporate Debtor for which they

have raised invoices against the Corporate Debtor which remains unpaid till this date.

3. Previously the petitioner filed a petition for initiation of CIRP against this Corporate Debtor in CP. No. 1466/2017, wherein the parties entered into consent terms and accordingly the petition was dismissed on 26.07.2018 as not pressed. The Corporate Debtor made payment to the extent of Rs. 32,63,153/- and failed to pay the balance amount. Further the petitioner made further supplies to the Corporate Debtor to the extent of Rs. 23,96,874/-. Thus, the amount payable by the Corporate Debtor is Rs. 90,28,640/-.
4. The Petitioner issued Demand Notice in Form 3 on 01.09.2018 demanding a sum of Rs. 90,28,640/- as a principal and Rs. 17,22,169/- as interest @ 18 % p.a. After receipt of the said Demand notice the Corporate Debtor failed and neglected to reply to the notice and has not paid the due amount. Even though the petitioner is not entitled to claim interest, the petitioner claimed interest. However, the petitioner has undertaken to rectify the form by excluding the interest portion. Accordingly, the petitioner is claiming a sum of Rs. 90,28,640/-.
5. The Petitioner filed an Affidavit as required U/s 9(3)(b) of the Code stating that no dispute was raised by the Corporate Debtor in respect of the claim amount.
6. The Professional appearing on behalf of Corporate Debtor admitted the debt and default and hence there is no opposition from the side of the Corporate Debtor for admission of this Petition.
7. 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 06.03.2019 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 Ms. Neelima Anil Bhate, 401 city centre opp. Ayurved Rasashala, Karve Road, Pune – 411004, Email – neelima_bhate@yahoo.com having Registration No. IBBI/IPA-001/IP-P01122/2018-2019/11900 as an Interim Resolution Professional (IRP) to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

8. Accordingly, this Petition is admitted.

9. The Registry is hereby directed to communicate this order to both the parties and also to the IRP immediately.

Sd/-
V. Nallasenapathy
Member (Technical)

sd/-
Bhaskara Pantula Mohan
Member (Judicial)