

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

**CP 2701 (IB)/MB/2018**

Under Section 9 of the I&B Code, 2016

In the matter of

**Accura Inks Private Limited**

...Operational Creditor/ Applicant

v/s

**Amarsai Shrink Pack Private Limited**

...Corporate Debtor/Respondent

**Order Dated 10<sup>th</sup> October 2019**

**Coram:** Hon'ble Member (Judicial): Mr V.P. Singh

Hon'ble Member (Technical): Mr Rajesh Sharma

**For the Applicant:** Adv. Bijal Vora.

**For the Respondent:** None Present.

*Per V.P Singh, Member (Judicial)*

**ORDER**

1. This is an application being CP 2701/2018 filed by **Accura Inks Private Limited**, Operational Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Amarsai Shrink Pack Private Limited**/ Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming a default of ₹31,00,721/- (Rupees Thirty One Lakh Seven Hundred and Twenty One Only) including interest of 24%p.a on the principal outstanding of ₹19,05,115/- (Rupees Nineteen Lakh Five Thousand One Hundred and Fifteen only) for the supply of ink materials by the Operational Creditor to the online portal of the Corporate Debtor.
2. Mr B. K Naulakha, the Director of the Applicant, files this application, is authorised by the board Resolution dated 24.11.2016, which is annexed to the Application.
3. The applicant originally formed as Accura Form Private Limited in 2014, was demerged into Accura Inks Private Limited. The Purchase order and invoices are raised in the name of Accura Form Private

Limited. Copies of the Gujarat High Court Order dated 20.04.2015 approving demerger of the Ink Division, and Certificate of Incorporation under the demerger is annexed to the Application.

4. The Applicant has supplied ink materials to the Corporate Debtor based on the purchase orders placed by the Corporate Debtor for total invoice amounts of ₹27,05,115/-. The Applicant has raised invoices from 04.04.2015 to 31.12.2015 for the materials supplied. Copies of the purchase orders and the invoices are annexed to the Application.
5. The Applicant has annexed its bank statement of Axis Bank account which is used for receiving payments which reflect the part payments of ₹8,00,000/- received from the Corporate Debtor from the period 24.07.2015 to 17.12.2015.
6. The Applicant has demanded payment for the materials supplied vide emails dated 15.02.2016, 16.02.2016, 20.02.2016, 26.02.2016, 10.03.2016 and 10.06.2016. The copies of the emails are annexed to the Application.
7. The Applicant filed an application under section 9 of the I & B Code, 2016, being CP (IB) No.1597/2017 before this Bench on 14.11.2017 against the Corporate Debtor. However, the matter was withdrawn with liberty to file fresh Application vide Order dated 17.04.2018. Certified Copy of the Order was received by the Applicant on 06.07.2018 and therefore the period from 14.11.2017 to 06.07.2018 is excluded while calculating the period of limitation.
8. The Applicant issued Demand Notice dated 11.05.2018 demanding ₹31,00,721/- including interest and the same was duly served on the Corporate Debtor on 25.05.2018. Copy of the Demand Notice along with the postal receipt and track report, is annexed to the Application.
9. The Applicant has filed Affidavit in compliance of section 9(3)(b) of the I & B Code, 2016 stating that the Corporate Debtor has not raised any dispute and has failed to pay the operational debt.
10. The Applicant has filed an affidavit of service showing that the Court Notice intimating next date of hearing and copy of the Application is duly served on the Corporate Debtor. On perusal of the Order Sheet,

it is seen that sufficient opportunity was granted to the Corporate Debtor to file its Reply. However, Corporate Debtor has failed to do so.

11. We have heard the parties and perused the record.
12. On perusal of the invoices for the period 04.04.2015 to 31.12.2015 and the Bank Statement of the Applicant showing part payments made in piecemeal, make it clear that the Applicant has supplied the ink materials, and the Corporate Debtor has made part payments. The Applicant has annexed the emails demanding outstanding payments of ₹19,04,693/-. It is also on record that after receiving the demand notice, the corporate debtor has not raised any dispute about the quality of the goods or the transaction. There is also no dispute regarding the payments.
13. The Application in Form 5 is complete. The Debt and default of the Corporate Debtor are established from the documents at hand. The Application is filed well within the period of limitation.
14. The Applicant has proposed name of **Mr Vinod Ambavat** registered insolvency resolution professional bearing Registration No. **(IBBI/IPA-001/IP-P00420/2017-18/10743)** to act as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code along with declaration of the proposed IRP, in Form 2, that no disciplinary proceeding is either pending or initiated against him.
15. The Application under Section 9 of I&B Code, 2016 filed by the Operational creditor for initiation of CIRP in prescribed Form No.5, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and is complete. The existing operational debt of more than rupees One lakh against the corporate debt and its default is also proved. Accordingly, the petition filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

### **ORDER**

This Application filed under Section 9 of I&B Code, 2016, filed by **Accura Inks Private Limited**, against **Amarsai Shrink Pack**

**Private Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
  - 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 activity 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 possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- IV. That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.

- V. That the public announcement under section 13 of the the I&B Code regarding initiation of corporate insolvency resolution process should be made immediately.
- VI. That this Bench at this moment appoints **Mr Vinod Ambavat**, a registered insolvency professional is having Registration Number **(IBBI/IPA-001/IP-P00420/2017-18/10743)** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
16. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor, and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted immediately.**

**Sd/-**  
**RAJESH SHARMA**  
Member (Technical)

**Sd/-**  
**V.P. SINGH**  
Member (Judicial)

**10<sup>th</sup> October 2019**