

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

**CP (IB) No. 655/MB/C-I/2022**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016

*In the matter of*

**Sudhar Industries**

**Through Mr. Nileshbhai Thakkar**

**Proprietor of Sudhar Industries**

Near Hanuman mandir, Undera, Taluka Vadodara.

**... Operational Creditor**

Versus

**Dhara Technosystem LLP**

**[LLPIN-AAD-2255]**

Registered Office at 11 92, Motilal Nagar No. 1, Link Road,  
Motilal Nagar, Goregaon West, Mumbai-400104.

**...Corporate Debtor**

**Order Delivered on 11.08.2023**

***Coram:***

Hon'ble Member (Judicial) : Mr. H.V. Subba Rao

Hon'ble Member (Technical) : Ms. Anu Jagmohan Singh

***Appearances:***

For the Operational Creditor : Mr. Vaibhav Jagdale, Advocate

For the Corporate Debtor : Mr. Ravi Jadhav, Advocate

**ORDER**

***Per: Anu Jagmohan Singh, Member (Technical)***

1. This is a Company Petition filed under section 9 (“**the Petition**”) of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **Sudhar Industries through Mr. Nileshbhai Thakkar proprietor of the Operational Creditor (“the Petitioner”)**, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Dhara Technosystem LLP (“the Respondent”)**.
2. The Respondent was incorporated on 19.01.2015. Its LLP No is AAD-2225. Its registered office is at 11 92, Motilal Nagar No. 1, Link Road, Motilal Nagar, Goregaon West, Mumbai-400104. Hence, this bench has jurisdiction to deal with the Petition. The date of default stated to be in particulars of claim is 05.12.2020 which is the due date of the last invoice dated 05.12.2020.

**Submissions advanced by the Operational Creditor**

3. The Operational Creditor submits that the total amount of debt due and payable by the Corporate Debtor is Rs.1,65,34,580 /- (Rupees One Crore Sixty Five Lakh Thirty Four Thousand Five Hundred and Eighty Only) comprising of principal amount of Rs.1,33,34,339/- (Rupees One Crore Thirty Three Lakhs Thirty Four Thousand Three Hundred and Thirty Nine only) plus interest at the rate of 18% p.a. amounting to Rs.32,00,241/- (Rupees Thirty Two Lakh Two Hundred and Forty One only). The tabular chart of the working computation is placed as “Exhibit-C”.

4. The Operational Creditor pursuant to the purchase orders dated 21.07.2020 and 04.08.2020 provided certain goods to the Corporate Debtor. Accordingly, the Operational Creditor for the goods supplied raised invoices bearing no. 17 and 18 dated 25.07.2020 and 05.08.2020 respectively.
5. The Petitioner submits that as per terms of the invoices and purchase order, the payment was to be made by the Respondent within 120 days from the date of the said invoices. The due date for payment invoices was 06.11.2020.
6. The Respondent has till date made a part payment of Rs. 9,00,000/- (Rupees Nine Lakh only). However, the Corporate Debtor has failed to clear the outstanding dues of the Petitioner.
7. In view thereof, a Demand Notice was issued under section 8 of the code dated 20.04.2022 for an amount of Rs.1,65,34,580/- as on 05.04.2022. The said notice was served by hand delivery on the Respondent. The Respondent has not replied to the said notice nor has he made the payment.
8. The Petitioner has proposed the name of Mr. Anshul Gupta to be appointed as IRP having registration no. IBBI/IPA-002/IP-N00310/2017-18/10899. The consent of the IRP is placed at page 44 of the Petition.

**Reply Submitted by the Respondent Corporate Debtor:**

9. The reply is filed by one Ms. Palak Shah, aged 30 years, Director of the Corporate Debtor/Respondent.

10. The Respondent is in the business of manufacturing of fabrications, assembly of electrical and fire panels, telecom products etc....
11. The Respondent in its reply and during the course of hearing held on 19.06.2023 admitted that an amount of Rs.1,65,34,580/- (Rupees One Crore Sixty Five Thousand Thirty Four Thousand Five Hundred and Eighty only) is due & outstanding to the Petitioner/Operational Creditor.
12. It is submitted that the Company is under financial distress due to Covid-19 pandemic and the entire business of the company has come to a halt. The default is a result of business slow down.

**Findings:**

13. We have heard the submissions of both sides and perused the records.
14. It is evident from perusal of records, that the outstanding amount was due and payable by the Corporate Debtor, as the goods were duly supplied by the Operational Creditor pursuant to the purchase orders.
15. Further, the Corporate Debtor has vide Affidavit-in-reply 21.06.2023 admitted the debt due to the Operational Creditor. Accordingly, this is a clear case for admission into CIRP.
16. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the

IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

17. The petition bearing **CP (IB) 655 /MB/C-I/2022** filed by **Sudhar Industries**, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Dhara Technosystem LLP**, the Corporate Debtor, is **admitted**.
18. There shall be a moratorium under section 14 of the IBC, in regard to the following:
  - i. 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;
  - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - iii. 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;

- iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
19. Notwithstanding the above, during the period of moratorium: -
- i. 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;
  - ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
20. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
21. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

22. **Mr. Anshul Gupta**, having Registration No. IBBI/IPA-002/IP-N00310/2017-18/10899, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
23. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
24. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

25. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
26. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.
27. Ordered accordingly.

**Sd/-**

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**

11.08.2023

Priyal

**Sd/-**

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**