

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**DIVISION BENCH, NEW DELHI**  
**COURT-III**

**Item 110**  
**IB-08(ND)/2020**

IN THE MATTER OF:

**M/S. ARNAV FASHIONS**

*.... Operational creditor*

Versus

**RS SEVEN LIFESTYLE PRIVATE LIMITED**

*.... Corporate debtor*

SECTION  
U/s 9 IBC code 2016

**Order delivered on 01.04.2021**

CORAM:

**CH. MOHD. SHARIEF TARIQ, MEMBER (JUDICIAL)**  
**SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)**

**PRESENT:**

For Operational Creditor : Mr. Sagar Bansal, Advocate.  
For Corporate Debtor : Ex-Parte.

**ORDER**  
**(Through Video Conference)**

1. The Ld. Counsel for the Operational Creditor is present. There is no representation on behalf of the Corporate Debtor. As seen from the record, the Corporate Debtor has been proceeded ***ex-parte*** on 19.01.2021.

2. Under Consideration is CP (IB)-08(ND)/2020 filed under Section 9 of the IBC, 2016 with the prayer to initiate CIR Process against the Corporate Debtor viz, *M/s. RS Seven Lifestyle Private Limited.*, declare Moratorium and appoint Interim Resolution Professional.

3. It is submitted by the Ld. Counsel for the Operational Creditor that the total amount of debt due from the Corporate Debtor is Rs. 34,54,635/- as on 26.06.2019 on account of goods supplied to the Corporate Debtor.

4. The Ld. Counsel for the Operational Creditor submitted that his client is a partnership firm incorporated under the laws of India and is in the business of sports apparel manufacturing and the Corporate Debtor approached to the Operational Creditor from time to time to supply sports apparel to it. Purchase orders were given against which the goods were supplied by the Operational Creditor to the Corporate Debtor. The detail of purchase orders is given in Para IV of the Petition.

5. It is submitted by the counsel for the Operational Creditor that after supplying goods to the Corporate Debtor, the invoices were raised to which a part payment amounting to Rs.61,18,875/- was paid and the credit notes for an amount of Rs.8,54,396/- were adjusted. The detail of credit notes is available at Page No.310 of the petition and the detail of the invoices is also placed on record.

6. It is further submitted that the invoices placed on record have been accepted by the Corporate Debtor by way of express communication dated 18.05.2019. Besides this, there are other communications which go to show that the invoices under reference were accepted by the Corporate Debtor.

7. It is submitted by the counsel for the Operational Creditor that the demand notice under Section 8 of the IBC, was sent on 09.08.2019, which was delivered on 13.08.2019 to the Corporate Debtor and proof of service of the same is available at

Page No.197 of the type-set filed with the petition. It is noted that no reply was given by the Corporate Debtor to the demand notice. The Operational Creditor has also filed affidavit in compliance of Section 9(3)(b) of the Code. The affidavit is placed on record at Page 312A and 312B, wherein it is deposed that no notice has been received from the Corporate Debtor relating to any dispute about operational debt. The Bank Statement is also placed at Page 199 and the ledger account is placed at page 303 of the type-set filed with the petition.

8. The documentary evidence placed on record establishes that the Corporate Debtor failed to make the payments to the Operational Creditor. Therefore, all the legal requirements are fulfilled, the application is **admitted**, and the commencement of the CIRP is ordered against *M/s. RS Seven Lifestyle Private Limited*, which ordinarily shall be completed within 180 days, reckoning from the day this Order is passed.

9. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -

- (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

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.

10. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

11. The Operational Creditor has proposed the name of Resolution Professional viz, *Mr. Piyush Moona, registered with IBBI having Registration No: IBBI/IPA-001/IP-P00990/2017-2018/11630 Address: Flat No. 04034, ATS Advantage Ahinsa Khand 1, Indirapuram Ghaziabad – 201014, Email: piyushmoona@gmail.com and Mobile No: 9818175255.* His consent is already obtained and no investigation is pending against him. Therefore, *Mr. Piyush Moona* is appointed as IRP and directed to take charge of the CD's management immediately including bank accounts. The IRP is also directed to cause public announcement as prescribed under Section 15 of IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claims by the creditors in the manner as prescribed.

12. We hereby direct the Operational Creditor to pay a sum of Rs. 2,00,000/- to the IRP so that he could perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

13. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

14. The Ld. Counsel for the Operational Creditor and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. The IRP is directed to communicate this Order to the Operational Creditor, and the concerned RoC.

15. The Order is dictated and pronounced in open court through video conferencing in the presence of Ld. Counsel for the Operational Creditor.



**NARENDER KUMAR BHOLA**  
MEMBER (TECHNICAL)



**CH. MOHD. SHARIEF TARIQ**  
MEMBER (JUDICIAL)

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