

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-241/ND/2019

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

M/S BHUPINDRA AGRO

PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

M/S SHRI VARDHMAN RICE

MILLS PRIVATE LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 04.12.2019

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant : Mr. Dhrubajit Singh, Adv.

For the Respondent : Mr. Rizwan Ahmed, Mr. Hasmat Nabi, Advocates

MEMO OF PARTIES

**M/S BHUPINDRA AGRO
PRIVATE LIMITED**

Having its registered office at:
Sehajpur Road Samana,
Distt Patiala, Punjab-147101

...Applicant/Operational Creditor

VERSUS

**M/S SHRI VARDHMAN RICE
MILLS PRIVATE LIMITED**

Having its registered office at:
LD-1, Pitampura
Delhi- 110034

...Respondent/Corporate Debtor

JUDGEMENT

PER- SH. HEMANT KUMAR SARANGI, MEMBER (T)

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016'), read with Rule 6 of the Insolvency and Bankruptcy (Application to

Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s. Bhupindra Agro Private Limited, (for brevity 'Applicant'), through its director, Mr. Harish Jain, with a prayer to initiate the Corporate Insolvency Resolution Process (CIRP) against M/s Shri Vardhman Rice Mills Pvt. Ltd. (for brevity 'Respondent').

2. The Applicant, namely M/s Bhupindra Agro Pvt. Ltd. is a Private Limited company, registered under the Companies Act, 1956, incorporated on 18.03.1997, with CIN No. U01122PB1997PTC019603, having its registered office at Sehajpura Road, Samana Distt, Patiala, Punjab 147101.
3. The Respondent, namely M/s. Shri Vardhman Rice Mills Pvt. Ltd., is a company incorporated on 02.03.2009, under the provisions of Companies Act, 1956 with CIN No. U01403DL2009PTC188059, having its registered office at LD-1, Pitampura, Delhi 110034. The Authorised Share Capital of the respondent company is Rs.3,00,00,000/- and Paid Up Share Capital of the company is Rs.2,19,89,300/- as per Master Data of the company.

4. It is the case of the applicant, that it is carrying on business of breeding, improving, developing, selling, importing, exporting, preparing, preserving, dealing and trading in all kinds of dairy products and poultry products. The Corporate Debtor is engaged in the business of export of basmati rice, non-basmati rice & husk. It approached the Applicant for procurement of husk products in the month of March, 2017. Upon respective negotiations, the Corporate Debtor had placed an order on the Operational Creditor for the supply of the aforesaid material, Operational Creditor raised its first invoice on 30.04.2017. The Operational Creditor in good faith supplied the husk material to the Corporate Debtor, wherein, the operational creditor issued total eleven invoices for an amount totaling to Rs.5,01,360/- (Rupees Five Lakhs One Thousand Three Hundred Sixty). That the Corporate Debtor has made no payments against the eleven invoices which were generated between 30.04.2017 to 17.05.2017 till the Financial Year of 2017-18. The details of invoices are as follows;

INVOICE NUMBER	INVOICE DATE	DUE DATE	BILL AMOUNT (Rs.)
7	30.04.2017	15.05.2017	46,920/-
8	30.04.2017	15.05.2017	47,820/-
9	02.05.2017	17.05.2017	46,890/-
10	04.05.2017	19.05.2017	47,460/-
11	07.05.2017	22.05.2017	48,000/-
12	07.05.2017	22.05.2017	47,040/-
13	08.05.2017	23.05.2017	48,660/-
14	12.05.2017	27.05.2017	47,220/-
15	12.05.2017	27.05.2017	45,840/-
16	15.05.2017	30.05.2017	48,360/-
17	17.05.2017	01.06.2017	27,150/-
TOTAL			5,01,360/-

5. The Operational Creditor further states that, in spite of various requests made and reminders sent by the Applicant, the respondent did not reply nor made the payment of balance amount, i.e., Rs.5,01,360/- (Rupees Five Lakhs One Thousand Three Hundred Sixty).
6. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 21.09.2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016, to the Corporate Debtor calling upon them to pay the outstanding payment amounting to Rs.6,21,704/- (Rupees Six Lakhs Twenty One Thousand Seven Hundred Four) (Principal amount of Rs.5,01,360/- and sum total of interest amount of Rs.1,20,343), inclusive of interest @ 18% per annum, within 10 days from receipt of the notice, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.
7. The Applicant has annexed postal receipts along with the tracking report of the notice under section 8 of the Insolvency

and Bankruptcy Code, 2016, the tracking report clearly shows the notice has been delivered.

8. Despite the demand notice sent under Section 8 of the Code, the Respondent failed to pay the amount demanded and has neither raised any notice of dispute. As no payment was coming, hence this application, seeking to unfold the process of CIRP.
9. The applicant has stated that total debt due and payable is Rs.6,21,704/- (Rupees Six Lakhs Twenty One Thousand Seven Hundred Four) (Principal amount of Rs.5,01,360/- and sum total of interest amount of Rs.1,20,343), inclusive of interest @ 18% per annum till 20.09.2018
10. Hence, the application under section 9 of the IBC, 2016, was filed by the applicant to initiate CIRP. The said notice was accepted by the Corporate Debtor.
11. After the service of said notice, the respondents have caused appearance in the matter and have filed their reply, in its reply to the present section 9 application, the respondent states that due to financial problems and hardship, the company is facing

hardship and is not in a position to honor its financial commitments. In such a situation the company has no alternative but to submit to resolution process.

12. The applicant has filed an affidavit under Section 9(3)(b) stating that no notice of dispute from Corporate Debtor is received.
13. The applicant has attached the copy of Bank statements issued by Punjab National Bank in compliance with the requirement of Section 9(3)(c) of the IBC 2016.
14. In view of above, we are satisfied that the present application is complete and the Operational Creditor is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfillment of requirements under section 9(5) of the Code. Hence, the present application is admitted.
15. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
16. The Applicant has proposed the name of Interim Resolution Professional as Mr. Vikas Garg. In view of the same, this Bench

appoints the same Mr. Vikas Garg, having registration no. IBBI/IPA-002/IP-N00189/2017-2018/10506, email address is vgargcs@gmail.com and contact number is +91-9417350437, as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.

17. We direct the Operational Creditor to deposit a sum of Rs.1 lacs with the Interim Resolution Professional Mr. Vikas Garg to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Operational Creditor. The amount however will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.
18. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the

provisions of Section 14(1) shall follow in relation to the Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.

19. The registry is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding the admission of this application must be notified.
20. Copy of order be supplied to parties

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (Technical)

Sd/-

(Dr. DEEPTI MUKESH)
MEMBER (Judicial)