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National Company Law Tribunal
New Delhi

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-967(ND)2019

In the matter of

M/s. Shree Bala Ji Super Foods

......Operational Creditor

V/s

M/s. Yong Mind rest Restaurant Pvt. Ltd.

.........Corporate Debtor

SECTION: 9 of IBC, 2016

Coram: **Order delivered on: 18.07.2019**

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SH. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present for the Petitioner.: **Mr. Arvind Kumar, Mr. Santosh Kumar, Advocates**
Present for the Respondent:

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

1. The petitioner has prayed for initiation of Corporate Insolvency Resolution process of the Corporate Debtor/Respondent invoking the provisions of Section 9 of the Insolvency and Bankruptcy Code.

2. As per averments the Corporate Debtor had approached the Operational Creditor to supply soft drinks and juices. The Operational

राष्ट्रीय कंपनी विधि अधिकरण National Company Law Tribunal नई दिल्ली पीठ New Delhi Bench

Creditor made regular supplies in terms of orders placed and maintained a running account in respect of the invoices raised and payments received from the Corporate Debtor. As payment of the Corporate Debtor became irregular, the Operational Creditor stopped supplies after 19.01.2019. Repeated requests and reminders were made to the Corporate Debtor to liquidate their dues. In acknowledgment of the existing liability and in a bid to reduce the same, the Corporate Debtor issued a cheque of Rs. 3 lakhs. This too returned dishonoured. The Operational Creditor further issued a demand notice under section 8 of the Insolvency and Bankruptcy Code which was not responded to, neither were any steps taken towards the payment of the outstanding liability. The Operational Creditor has therefore filed the present petition annexing with relevant documents along with other statutory compliances.

3. On issuance of the notice after filing of the petition, none appeared on behalf of the Corporate Debtor they were proceeded ex-parte. In view of the submissions made by the Operational Creditor which remain unrebutted, and for want of any pre-existing dispute on record, the petitioner is entitled to the prayer made in the present petition. This

petition is therefore Admitted. A moratorium in terms of Section 14 of the Code comes into effect forthwith, staying:

staying:

> "(a) *the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 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 the possession of the corporate debtor.*
>
> Further,
>
> *(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(4) Further, the order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

"Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

4. The Operational Creditor has not proposed the name of any IRP. Accordingly, we accordingly, appoint Mr. Sanjay Sahni, Registration No. IBB/IPA-001/IP-P00341/2017-18/10642 email: , Mobile No. 9810282770 duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17,18,20 and 21 and file his report.

5. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be duly accounted

for by the IRP and shall be reimbursed by the CoC to the Operational Creditor, to be recovered as CIR costs.

6. Copy of the order be communicated to both the parties as well as to the IRP.

7. To come up on 30th August, 2019 for further consideration.

-Sd-
(V.K. Subburaj)
Member (T)

-Sd-
(Ina Malhotra)
Member (J)

राष्ट्रीय कम्पनी विधि अधिकरण
National Company Law Tribunal
नई दिल्ली बेंच
New Delhi Bench

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2/9/19
सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003