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CP (IB) /3084/ND/2019

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT No. IV)**

COMPANY APPLICATION No. IB-3084/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:

Ms. Neha Jain

...

**Applicant/
Operational Creditor**

Versus

Pebble Glossy Metals Private Limited

...

**Respondent/
Corporate Debtor**

Order Pronounced on: 30/11/2021

Coram:

Dr. Deepti Mukesh, Hon'ble Member (Judicial)
Ms. Sumita Purkayastha, Hon'ble Member (Technical)



Vishal Rana
3-12-21

MEMO OF PARTIES

Ms. Neha Jain
82, 3rd Floor
Sadbhawana Apartments
IP Extension,
Delhi 110 092 ... **Applicant/Operational Creditor**

Versus

Pebble Glossy Metals Private Ltd.
Having its registered office at
B-923, B Block,
Gharoli Dairy Farm
Mayur Vihar, Phase 3
New Delhi 110 096 ... **Respondent/Corporate Debtor**

Appearance:

For the Applicant : Mr. Shohit Chaudhary, Advocate
For the Respondent :

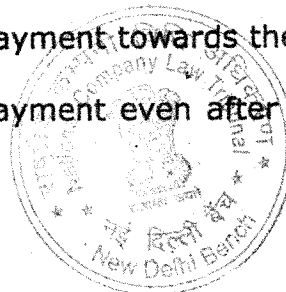
ORDER

Per: Dr. Deepti Mukesh, Member (Judicial)

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 **Ms. Neha Jain** (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against **Pebble Glossy Metals Private Ltd.** (for brevity 'Corporate Debtor').

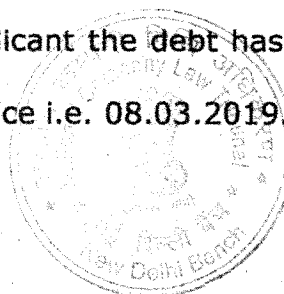


2. The Applicant is a Cost Accountant having garnered name in the field and profession having Permanent Account Number – APHJ00871 and having office/residence at IP, Extension, Delhi. The Applicant is a Cost Accountant
3. The corporate debtor is a Private Limited Company, incorporated under the provisions of companies Act, 2013 on 05.02.2015, duly registered with Registrar of Companies, New Delhi with CIN: U15101DL2015PTC276366 and having registered office at Mayur Vihar, New Delhi. The Authorized share capital of the Respondent is Rs. 1,00,00,000.00 and Issued, Subscribed and Paid up share capital of the company is Rs. 1,00,00,000.00.
4. It is submitted by the applicant that the corporate debtor engaged in the business of trading of non-ferrous metals approached the applicant sometime in January, 2019 and got done a project and feasibility analysis for establishment of manufacturing facilities in non-ferrous metals trade. That having completed the analysis and supply of the project report the applicant raised invoice dated 08.03.2019 for Rs. 4,00,000/-. That no claim/dispute has been raised by the corporate debtor after receipt of the report, however, the corporate debtor failed to clear the payment towards the invoice. That having failed to receive the payment even after contracting the Director of the

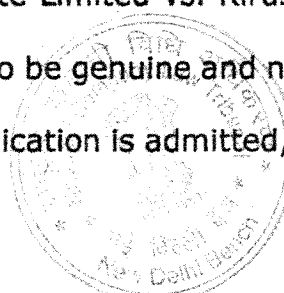


corporate debtor in June, 2019, the applicant issued demand notice under Section 8 of the IB Code dated 31.08.2019 and served it on the corporate debtor by hand delivery. Despite receipt of the demand notice, the respondent failed to make payment of outstanding amount and did not reply the demand notice. The applicant filed present application under Section 9 of the I & B Code which was also duly served on the respondent's registered office address.

5. The applicant has annexed to the application copies of all the documents invoice, PAN card, computation of default, demand notice bank statement for the period from 08.03.2019 to 16.09.2019, affidavit under Section 9 (3) (b), affidavit under Section 9 (3) (c), affidavit along with proof of service, consent of IRP in Form 2 along with registration certificate and other related documents.
6. As per Form 5, Part IV, the corporate debtor is liable to pay an outstanding sum of Rs. 4,22,882/- (Rupees four lacs twenty-two thousand eight hundred eighty-two only) which include interest @ 12% for the period from 09.03.2019 to 30.08.2019. According to the applicant the debt has fallen due and payable from the date of invoice i.e. 08.03.2019.



7. The applicant has filed an affidavit under Section 9 (3)(b) which stands complied.
8. The registered office of the corporate debtor is situated in New Delhi, therefore, this Tribunal has jurisdiction to entertain and try this application.
9. The date of default as per Form 5 occurred on 08.03.2019, and the present application was filed on 02.11.2019, hence the debt is not time barred and the application is filed within the period of limitation.
10. Heard submissions made and perused the documents on record. The present application is complete and the Applicant is entitled to claim its dues. The corporate debtor has disputed the payment of claim of applicant, but has totally failed to show that there is a pre-existing dispute and the amount claimed by the applicant is not payable. No documentary evidence is filed by the corporate debtor to substantiate the existence of a dispute. We are convinced that the debt is due and payable and default has occurred. As held by the Hon'ble Supreme Court in case of "Mobilox Innovative Private Limited vs. Kirusa Software Private Limited" the dispute has to be genuine and not mere moonshine dispute. The present application is admitted, in terms of section 9 (5) of IBC, 2016.



11. The applicant has proposed the name of the Interim Resolution Professional (IRP), hence, we hereby appoint Mr. Ashish Singh, having Registration No: IBBI/IPA-002/IP-N00416/2017-2018/11230 having Email Address: ashishsinghcs@gmail.com and having office at 515, Baghban Apartments, Sector 28, Rohini, New Delhi 110 042 to act as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Corporate debtor and specific consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.
12. We direct the Operational Creditors to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Ashish Singh to meet out the expense 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 one week from the date of receipt of this order by the Operational Creditor.

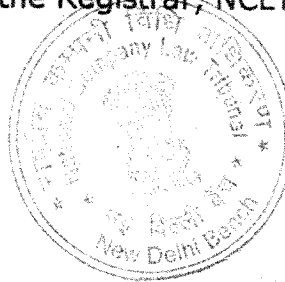
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The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

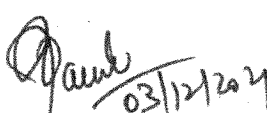
13. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.
14. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

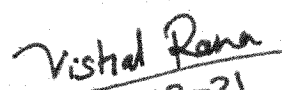

Ms. Sumita Purkayastha
Member (Technical)




Dr. Deepti Mukesh
Member (Judicial)

KMN


03/12/2021
सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110 003


3-12-21