



**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 12.04.2023 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)/114/9/AMR/2022		9 of IBC	SPC FAB Private Limited Vs. Villmar Agro Polymers Pvt Ltd.

ORDER

Mr.Promod Kumar, Counsel for the OC present. Orders pronounced.
CP(IB)/114/9/AMR/2022 is admitted, vide separate orders.

Sd/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN



NCLT Amaravati Bench
CP (IB)/114/9/AMR/2022

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

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CP (IB)/114/9/AMR/2022

**In the matter of a Petition 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**

AND

**In the matter of
M/s. VILLMAR AGRO POLYMERS PRIVATE LIMITED**

Between:

SPC Fab Private Limited,
(CIN: U72200KA2004PTC034911),
Registered Office at Saraswati Nilayam,
No. 747/42, 5th Main Road, 4th Cross,
Vijayanagar, Bangalore - 560040

... Operational Creditor

AND

M/s. Villmar Agro Polymers Private Limited,
(CIN: U24132AP2014PTC095852),
Registered Office at 25-5-16, F2,
Vinukondavari Street, Kakinada, AP -533001

... Corporate Debtor

Date of pronouncement of orders: 12.04.2023

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Operational Creditor : Mr. Pramod Kumar, Advocate.

For Corporate Debtor : None appears (*ex parte*)



ORDER

1. This Petition is filed by M/s. SPC Fab Private Limited, i.e., the Operational Creditor (“in short OC”) against M/s.Villmar Agro Polymers Private Limited i.e., the Corporate Debtor (“in short CD”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against the CD for the default committed in discharging the debt of Rs.1,69,55,321/- that was due to the OC.
2. The facts as stated in the Synopsis are as follows::
 - i. The OC and CD executed an Agreement dated 01.12.2020 whereby the OC supplied raw material to CD i.e., PP Granules (Polypropylene granules) and also engaged the CD for contractual job works obligation to convert raw materials into PP woven fabric rolls, for the purpose of making cement, Fertilizer Bags or other products as per requirement. It is not in dispute that CD made payments initially to OC as per their convenience on an ad-hoc basis. The CD made the last partial ad-hoc payment on 07.10.2021.
 - ii. As per the terms and conditions, the OC used to raise tax invoices upon the CD, confirming the delivery of goods and requested the CD to remit the invoiced amount. The CD paid certain amounts on an intermittent basis which was also duly confirmed by the OC and manifestly evident from the ledger account maintained by the OC during the regular course of business. After making the last payment on 07.10.2021, the CD



deliberately avoided payment for the goods supplied and inter alia failed to return the unused raw material supplied, for onward processing. As per the account maintained by the OC during the normal course of business, CD admittedly is due and liable to pay an amount of Rs.1,69,55,321.60/-.

- iii. The OC waited patiently for a prolonged period of time, believing the assertion of the CD to clear the outstanding. However, despite the delay, the CD did not take any steps to remit the legally admitted debt towards discharge of their liability. More so, non-payment of the amount claimed in this statutory legal notice, amounts to malfeasance and deliberate over indulgence in depriving the OC to receive the amount, leading them for loss of opportunity cost of capital for which the CD is alone responsible.
- iv. The OC issued demand notice dated 13.06.2022 in Form 3 U/s.8 of Insolvency and Bankruptcy Code, 2016, to pay the outstanding debt amount, calling upon them to pay a sum of Rs.1,69,55,321/-, within 10 (Ten) days. The CD refused to take the statutory notice as evident from the endorsement made by postal authorities on the returned envelopes as "Addressee Not Claimed Hence Return to Sender" dated 23.06.2022. Therefore, the statutory notice is deemed to be served upon the corporate Debtor. The CD did not remit the outstanding amount of **Rs.1,69,55,321/-** and there is no dispute with regards to the outstanding amount. Hence this Petition, seeking to initiate CIRP.



3. None appears for the CD and the CD was *set exparte*, since the notice sent to the CD was returned as not claimed. Heard the counsel for the OC. The counsel for the OC submits that a contract was entered into, between the parties on 01.12.2020 as per which the OC has made payments to the CD for fulfilment of the terms of the contract. He draws the attention of this Tribunal to clause “H” of the contract wherein it was recited that as regards the payment of job charges it has to be done fortnightly and within 3 days from the end of 15th of every month and end of every month, on the basis of actual dispatch received up till such date, subject to quality confirmation. He also draws the attention of the Tribunal to the invoices, wherein a declaration was incorporated that “Quality and Rates as mentioned are final if no claim is received within 24 hours of receipt of the goods or 3 working days from the date of dispatch. The counsel contends that there was no complaint received as regards the quality, at any time, much less within 24 hours as incorporated in the invoices. He draws the attention of the Tribunal to the demand notice, wherein the amounts due were tabulated. He submits that the amount against Sl.Nos.1, 3, 4, 5 & 6 are due to be paid by the CD. He also submits that a joint statement was made by both the parties on 12.01.2022, on the basis of the discussions and the amounts that were finalised as on that date. He submits that according to the said joint statement Rs.1.11 Crores and odd is admitted as due to the OC under this contract and that in respect of other amounts they have filed a suit. The above evidence would show that there is no dispute with regard to the amounts that are due to the OC by the CD and the joint statement



clearly reveals that the same is acknowledged by the CD. There is no reply issued to the demand notice issued by the OC. Hence, it clear that the CD does not have any argument to offer against the submissions made by the counsel for the OC. Hence, this order.

4. I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The OC did not suggest any name as Insolvency Resolution Professional (IRP) and sought the Tribunal to appoint an IRP. Hence, **Mr.Gudipati Siva Rama Prasad**, (Registration No. IBBI/IPA-002/IP-N01233/2022-2023/14163) is appointed as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

- i. **Mr.Gudipati Siva Rama Prasad**, (Registration No. IBBI/IPA-002/IP-N01233/2022-2023/14163), having office at Door No.3-28-32, Brundavan Gardens, 4th Lane, 2nd Cross Road, Adilakshmi Nilayam, Guntur, Andhra Pradesh-522007; e-mail: **rp.gsivaramaprasad@gmail.com**; Mobile: **9494999116**; is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website.



- ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.
- iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.
- v. The Registry shall communicate the order to the Operational Creditor and the Corporate Debtor forthwith.
- vi. The Operational Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.

Sd/-
JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu