

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH**

C.P. (IB) 4500/MB/2019

Under Section 8 & 9 of the IBC,
2016

In the matter of

Haresh Enterprises

C/O Amir Arsiwala, 4th Floor,
Cambatta Building, East Wing
above Eros Cinemas, 42, M.K.
Marg, Churchgate, Mumbai-
400020

.... Petitioner

v/s.

Mohota Industries Limited

Block No. 15, 3rd Floor, Gate No. 2,
Devkaran Mansion, 63, Princess
Street, Mumbai, Maharashtra-
400002

.... Corporate Debtor

Order Delivered on 23.01.2020

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Adv. Zaid Mansuri, Adv. Radhika Motiani

For the Corporate Debtor: None Present

Per: V. Nallasenapathy, Member (T)

ORDER

Pronounced On: 09.01.2020

1. This Company Petition is filed by Haresh Enterprises (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Mohota Industries Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment of



₹5,06,452/- inclusive of interest at the rate of 12% per annum on the delay in payment, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that the Corporate Debtor approached the Petitioner for the purchase of 15,000 Kgs of Acetic Acid and placed a Purchase Order for the same bearing no. H/891/18 dated 24.10.2018. Upon receipt of the above order, the Petitioner supplied the required goods to the Corporate Debtor. The Petitioner also issued a delivery challan no. 1098 dated 27.10.2018 and raised an invoice bearing no. IGST/HE-087 dated 27.10.2018 for ₹4,45,391/- including taxes. The Corporate Debtor was not able to pay the said amount within the stipulated time of 30 days mentioned in the invoice.
3. On account of non-payment, the Petitioner issued Demand Notice dated 31.08.2019 in Form 3 under Section 8 of the I & B Code, 2016 to the Corporate Debtor demanding payment of ₹5,06,452/- . The Corporate Debtor neither mad any payment nor replied to the demand notice.
4. The Petitioner has annexed the purchase order dated 24.10.2018, delivery challan dated 27.10.2018 for the goods delivered to the Corporate Debtor and invoice dated 27.10.2018. The Petitioner has also annexed statement of bank account of the Petitioner and ledger account of the Corporate Debtor maintained by the Petitioner to show that a balance of ₹4,45,391/- is receivable from the Corporate Debtor. The Petitioner has also annexed Bank Certificate as required under Section 9(3)(c) of the Code.
5. The Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.



6. The Petitioner has enclosed the confirmation of balance made by the Corporate Debtor at page no. 72 of the Petition wherein on 01.04.2019 the Corporate Debtor confirmed balance of ₹ 4,45,391/- as balance due to the Petitioner.
7. This Bench has gone through the petition and heard the counsel for the Petitioner. There is no representation on the side of the Corporate Debtor despite service of notice through Court.
8. The Petitioner has claimed the interest however, we have seen there is no provision for claiming interest in the invoice. The Counsel for the Petitioner fairly agrees that they are ready to give up the interest claimed by them.
9. On seeing the Petition and the document enclosed thereto it is very clear that the Corporate Debtor has committed default to the extent of ₹4,45,391/- and accordingly, the petition deserves admission.
10. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:
 - (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.



(b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(d) that the order of moratorium shall have effect from 23.01.2020 till the completion of the CIRP or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Prashant Jain, having office at A-501, Shanti Heights, Plot No. 2,3,9B/10, Sector 11, KoparKhairane, Navi Mumbai, Maharashtra- 400709, having email address ipprashantjain@gmail.com, having Registration No. IBBI/IPA-001/IP-P01368/2018-2019/12131 as an Interim Resolution Professional to carry out the functions as mentioned under the Code.

11. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 31.01.2020

Assistant Registrar
National Company Law Tribunal Mumbai Bench