



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT-I

25. C.P. (IB)/227(MB)2023

CORAM: SHRI H. V. SUBBA RAO, HON'BLE MEMBER (J)
MS. ANU JAGMOHAN SINGH, HON'BLE MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **21.06.2023**

NAME OF THE PARTIES: B.K. INTERIORS THROUGH PROPRIETOR

PRALHAD SUTAR

V/S

DANESITA PHADNIS FOOD INDUSTRIES LIMITED

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Petitioner, Mr. Ninad Deshpande and counsel for the Respondent, Ms. Tejaswini Kaudallu i/b Mr. Navin Arora are present for physical hearing.

Counsel appearing for the Corporate Debtor fairly conceded that they have admitted the "debt" and "default" not only in the affidavit-in-reply but also in the demand notice. Since, there is a clear cut admission of "debt" and "default" in this case, this bench is left no with option except to admit this Company Petition. Accordingly, the above Company Petition is admitted. Detail order will follow.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)
--Rajeev--

Sd/-
H. V. SUBBA RAO
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
BENCH COURT- I**

C.P. No. 227/IBC/MB/2023

Under Section 9 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 6 of the Insolvency
and Bankruptcy (Application to Adjudication Authority)
Rule 2016)

In the matter of

B.K. INTERIORS

Through its Proprietor Pralhad Sutar

Having registered office at: 17/51, Shed, Cross Road No.
2, Singh Estate, Near Thakur College, Kandivli (East),
Mumbai- 400101

.....Operational Creditor

Vs

Danesita Phadnis Food Industries Limited

(CIN: U15500PN2011PLC138494)

Registered office at: Kalpavriksha, Survey No. 46/1C/1,
Second Floor, D.P. Road, Karve Nagar, Pune- 411052

.....Corporate Debtor

Order pronounced on: **21.06.2023**

Coram:

Hon'ble H.V. Subba Rao, Member (Judicial)

Hon'ble Anu Jagmohan Singh, Member (Technical)

Appearances:

For the Petitioner: Mr. Danesh Mehta i/b M Mulla Associates

For the Respondent: Mr. Anmol i/b Juris Consillis



1. The above Company Petition is filed by M/s. B. K. Interiors through its Proprietor Pralhad Sutar hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Danesita Phadnis Food Industries Limited called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called “Code” read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 1,32,22,794.47/-.
2. The Corporate Debtor filed a formal affidavit-in-reply dated 16.03.2023 admitting the “debt” and “default” in para-1 is extracted hereunder;

Para-1

“That there exist dues that are payable by the Corporate Debtor to the Operational Creditor and there is no argument about the existence of these dues. However, the default by the Corporate Debtor in repayment of these dues is not wilful and has been caused by events that were beyond the control of the Corporate Debtor. As this default in repayment of these dues is not wilful, it is not covered by the relevant sections of the Insolvency and Bankruptcy Code, 2016 and the Corporate Insolvency Resolution Process cannot be initiated against. the Corporate Debtor”

3. The above matter is listed on today’s board for final hearing. However, counsel appearing for the Corporate Debtor fairly conceded that they have admitted the “debt” and “default” not only in the affidavit-in-reply but also in the demand notice. Since, there is a clear cut admission of “debt” and “default” in this case, this bench is left with no option except to admit this Company Petition. The Petitioner also suggested the name of the proposed IRP along with his consent letter to be appointed in this case. Thus, the present company petition satisfies all the necessary requirements for admission.

4. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 227 (MB)/2023 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s. Danesita Phadnis Food Industries Limited**
- b. This Bench hereby appoints **Mr. Mahesh Sureka**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00413/2017-18/10736 (email id- mahesh@mrsureka.com) as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by COC.
- d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; 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.



- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process 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.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

--Rajeev--

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)