BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

CP(IB) 807/9/NCLT/AHM/2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 03.02.2021

Name of the Company: Dipal Chemical Industries
V/s
Padmavati Intermediates Pvt Ltd

Section: 9 of Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 3rd day of February, 2021.

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BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1

CP (IB) No.807/9/NCLT/AHM/2019

(An application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

M/s. Dipal Chemical Industries,
38/A, Patel Estate,
B/h. Anand Hotel,
Narol – Isanpur Road,
Ahmedabad.

... Operational Creditor

V/s.

M/s. Padmavati Intermediates Pvt. Ltd.
Office No.111, Shreeji Complex,
Kansara Bazar,
Rajkot, Gujarat – 360001.

... Corporate Debtors

Date of Hearing: 1st February, 2021
Date of Pronouncement: 3rd February, 2021

Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)

Appearance:
Learned PCS Mr. Dhiren Dave, for the Operational Creditor.
Leaned Counsel Mr. Ravish Bhatt for the Corporate Debtor.

ORDER

[Per: Madan B. Gosavi, Member (Judicial)]
(Through Video Conferencing)

1. M/s. Dipal Chemical Industries (sole proprietor) and the Operational Creditor filed this application under Section 9 of the I.B. Code against M/s. Padmavati Intermediates Pvt. Ltd., the Corporate Debtor to initiate the Corporate Insolvency Resolution Process ("CIRP") on the ground that the Corporate Debtor committed default in paying operational debt of Rs.5,29,501/-.

2. The Operational Creditor states that under the invoices dated 31.07.2019, he sold and supplied the Corporate Debtor "Sulphodate (AOS Liquid)." The Corporate Debtor did not pay the price of goods, i.e. Rs.5,11,589/-.

3. Since, the Corporate Debtor was not paying its dues, on 21.10.2019, the Operational Creditor served notice of demand under Section 8 of the I.B. Code, 2016. In-spite of receipt of the notice, the Corporate Debtor did not pay the amount.

4. By notice reply dated 04.11.2019, the Corporate Debtor admitted the debt and requested for some time but it did not pay the amount. Hence, this proceeding is filed against the Corporate Debtor to initiate the CIRP under Section 9 of the I.B. Code.

5. The Corporate Debtor was served with the notice of this application. It has appeared through Advocate, Mr. Ravish Bhatt. On behalf of the Corporate Debtor, he filed written submission dated 03.08.2020, which is on record. We have gone through those written notes. In Para-5 of the reply, it is stated that:

"The Corporate Debtor expected to get proper cash flow in current financial year but on count of imposition of nationwide lockdown because of Covid-19 pandemic, the problems of corporate debtor have exasperated and in such a situation though corporate debtor has intintions of making the payment, it is unable to make the payment against the particular invoice."

6. It is seen from the above contention of the Corporate Debtor that the Corporate Debtor admitted the fact that the operational debt is due and payable to the Operational Creditor and it has made a default in paying the same in-spite of receipt of notice under Section 8 of the I.B. Code.

7. Hence, we have no alternative but to admit the Corporate Debtor in the Corporate Insolvency Resolution Process.

8. The Operational Creditor did not suggest the name of any Insolvency Professional and left the matter discretion of this authority.

9. The application is defect free Hence, we admit the Corporate Debtor in the Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 by following order:

ORDER

1. The Corporate Debtor, **M/s. Padmavati Intermediates Pvt. Ltd. (CIN: U24224GJ2009PTC058585)** is hereby admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.

2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

   a. 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;

   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 Securitisation 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.

3. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

4. We hereby appoint Mr. Darshan Bharatbhai Patel, having registration no. No.IBBI/IPA-001/IP-P01579/2018-2019/12442, email: ca.darshanbpatel@gmail.com, Mobile No.09825160160 (Gujarat, Ahmedabad) to act as an Interim Resolution Professional (IRP) under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w. Regulation made thereunder.

5. The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person

associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

6. This Adjudicating Authority directs the IRP to make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.

7. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

8. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.25,000/- (Rupees Twenty Five**

Thousand Only) to the IRP within two weeks **from the date of this order** for the purpose of smooth conduct of Corporate Insolvency Resolution Process ("CIRP") and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

9. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.

10. Accordingly, **CP (IB) No.807/9/NCLT/AHM/2019** stands admitted.

(Virendra Kumar Gupta)
Member (Technical)

(Madan B. Gosavi)
Member (Judicial)

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