

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IBA/257/2019

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. M.K Cables & Conductors Private Limited

M/s. Sri Balaha Chemicals Private Limited

---Operational Creditor

V/s

M/s. M.K Cables & Conductors Private Limited

---Corporate Debtor

Order delivered on: 30.07.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Mr. K.K Murraltharan, Advocate*

For the Corporate Debtor : *Mr. N.A Srinivasan, Advocate*

Mr. T.V. Suresh Kumar, Advocate

For Genicon & Associates

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in the Open Court on 30.07.2019

It is an Insolvency and Bankruptcy Application (IBA) filed u/s
9 of the Insolvency & Bankruptcy Code, 2016 ("the Code") for
initiation of Corporate Insolvency Resolution Process ("CIRP")
against the Corporate Debtor on the ground the Corporate Debtor

failed to pay ₹1,27,11,811 (Principal ₹72,47,442 + Interest ₹54,64,369) as on 22.12.2018 (basing on the additional affidavit filed by the Operational Creditor).

2. On perusal of this Application and hearing the submissions of either side, it is evident that this Creditor kept on supplying raw material i.e., supply of Aluminum EC Rods to the Corporate Debtor, in pursuance thereof, the Operational Creditor has made a claim over the invoices raised by the Operational Creditor, as mentioned in the table below:

Invoice No.	Date	Value	
		Rs.	P.
M0056	17.04.2015 (Balance after deducting payments made out of Rs.12,12,340/-)	1,43,905	
L504	13.05.2015	20,04,876	
L552	16.05.2015	9,79,340	
L553	16.05.2015	4,95,201	
L0051	18.05.2015	36,24,120	
Total Principal		72,47,442	
Interest calculation	Interest on said outstanding at 18% for period 2015-2016	13,39,711	
	2016-2017 and 2017-2018 up to Dec '18	41,24,658	
	Total Interest	54,64,369	
	Total amount of debt due as on 22.12.2018	1,27,11,811	

3. As to interest portion is concerned, the Operational Creditor counsel has stated that the Corporate Debtor was in the practice of paying interest over belated payments and the Operational Creditor had been supplying material to the Corporate Debtor since incorporation of the Corporate Debtor, therefore Operational Creditor has calculated interest @ 18% per annum in making this claim before this Bench. Though the last invoice is dated 18.05.2015, to prove that this debt is within limitation, this Operational Creditor has filed a letter dated 08.08.2016 from the Corporate Debtor reflecting acknowledgement by the Corporate Debtor in respect to the debt payable to the Operational Creditor herein.

4. As against this claim, though the Corporate Debtor initially raised contention regarding interest component, finally the counsel appeared on behalf of the Corporate Debtor has stated that the Corporate Debtor has no objection for admission of this company petition against the Corporate Debtor as claimed by the Operational Creditor.

5. That apart, the Operational Creditor counsel has drawn our attention to the ledger account disclosing that the interest has been debited out of the payment earlier made by the Corporate Debtor reflecting that the Corporate Debtor was in the practice of paying interest along with principal amount even before filing of this case.

6. In view of the aforesaid reasons, we are of the view that the Operational Creditor herein has proved existence of debt and default thereby this company petition is hereby admitted by appointing Mr. R. Sankaran as RP with a further direction to this Operational Creditor to pay remuneration of the IRP and also other expenditure that IRP incurs in discharging his duties until RP has been appointed by the CoC, accordingly, directed as follows:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 (SARFAESI Act);

(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.

(II) 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.

(III) 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.

(IV) That the order of moratorium shall have effect from **30.07.2019** 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.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mr. R. Sankaran** as **Interim Resolution Professional** (Reg. No. IBBI/IPA-001/IP-P01692/2019-2020/12608), E-mail: sanumlegal@gmail.com, **Mobile No: 9840029397** with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

7. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

VS/TJS