



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD**

COURT - II

CP (IB) 518/NCLT/AHM/2019

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the Matter of:

**Mateshwari Minerals
Through its proprietor
Mr. Piyush Bangar**

**Applicant/
Operational Creditor**

Versus

Jet Granito Private Limited

**Respondent/
Corporate Debtor**

Order Pronounced on: 23/06/2022

Coram:

**DR. DEEPTI MUKESH
HON'BLE MEMBER(JUDICIAL)
AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**

CP (IB) /518/NCLT/AHM/2019



MEMO OF PARTIES

**Mateshwari Minerals
Through its proprietor
Mr. Piyush Bangar**

Principal Office
88-Main Sector, Shastrinagar
Bhilwara
Rajasthan 311 001 ...

Applicant/Operational Creditor

Versus

Jet Granito Private Limited

Registered Office at
Survey No. 119/P-1,
8-A, National Highway
Matel Char Rasta, Dhuva
Tal. Wankaner
Rajkot 363 622
Gujarat State ...

Respondent/Corporate Debtor

Appearance:

For Applicant : Mr. Vinit Nagar, PCS

For the Respondent : Ms. Shaili Shah, Advocate

ORDER

1. This application is filed ON 15.07.2019 under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') through Mr. Piyush Bangar, Proprietor of **Mateshwari Minerals** (for brevity 'Applicant')



with a prayer to initiate the Corporate Insolvency Process (CIRP) against **Jet Granito Private Limited** (for brevity 'Corporate Debtor').

2. The applicant is a proprietorship firm having its office at 88-Main Sector, Shastri Nagar, Bhilwara, Rajasthan 311 001, engaged in supply of Raw Mix used in the manufacture of ceramic tiles and having PAN: AFJPB7748A.
3. The corporate debtor is a private limited company, incorporated under the provisions of Companies Act, 1956 on 30.03.2006 duly registered with Registrar of Companies, Ahmedabad, Gujarat State with CIN: U26930GJ2006PTC048051, having registered office at Survey No. 119/P-1, 8-A National Highway, Matel Char Rasta, Tal. Wankaner, Dhuva, Rajkot, Gujarat State. Authorised share capital of the corporate debtor is Rs. 12,60,00,000/- and paid up share capital of the company is Rs. 12,36,67,000/-. The corporate debtor is engaged in the business of manufacture of ceramic tiles.
4. It is submitted by the applicant that it had supplied Talc i.e. raw mix from time to time as per the requirement of the corporate debtor



against the orders placed telephonically by corporate debtor. The said material was used as raw material by the corporate debtor in manufacturing of ceramic tiles.

5. It is stated by the applicant that seven invoices raised by the applicant against supply of goods to the corporate debtor during the period from 30.06.2016 to 31.01.2017 for total amount of Rs.17,68,899.04 (Rupees seventeen lacs sixty-eight thousand eight hundred ninety-nine and paise four only) which are due and payable by the corporate debtor. The said amount includes interest @ 18% for delayed period as on 20.04.2019 as per the calculation annexed to the application.

6. The applicant further states that on not receiving any outstanding payment from the corporate debtor, statutory demand notice under Section 8 of the IB Code in Form 3 dated 19.04.2019 was issued by the applicant which was not replied by the corporate debtor. The applicant has filed track consignment report evidencing that the demand notice was delivered at the registered office address of the corporate debtor on 26.04.2019 as per the master data. Copy of master data and track report are annexed. Thereafter, the applicant filed



present application under section 9 of the IB Code to initiate CIRP against the corporate debtor.

7. The corporate debtor filed reply to the application and contested as under:
- Out of the total purchase for Rs. 43,77,440/- by the corporate debtor an amount of Rs. 36,42,402/- which is undisputed is paid and the same is evident from the bank statements of the applicant annexed;
 - Out of the total outstanding dues of Rs. 11,35,038/- the corporate debtor paid Rs. 4,00,000/- to the applicant on 22.09.2017 through NEFT. Therefore, total outstanding amount is Rs. 7,35,038/- and not the amount claimed by the applicant;
 - Amount claimed by the applicant is Rs. 13,50,990/- which is highly disputed in as much as the invoice dated 31.07.2016 amounting to Rs. 5,63,213/- was never received by the corporate debtor;
 - The corporate debtor has not claimed the Input Tax Credit (ITC) in respect to the disputed bill amount, which indicates that no such purchase order was issued by the corporate debtor;
 - No lorry receipts were ever received by the corporate debtor in respect of the goods in dispute for the invoice dated 31.07.2016;



- The audit report of the corporate debtor reflects outstanding debt in respect of the operational creditor for Rs. 7,35,038/- only and not the amount claimed by the applicant.
8. The applicant filed rebuttal documents annexing therewith list of sale of goods made during the month July, 2016 and list of Form 201A which shows that the applicant had deposited VAT @ 4% plus additional VAT @ 1% amounting to Rs. 26,820/- against invoice No. A-470 dated 31.07.2016.
9. The applicant filed written submissions inter alia stating that:
- The corporate debtor has duly admitted an aggregate debt of Rs. 7,35,038/- which is overdue against the supplies made during the period from June, 2016 to January, 2017.
 - That the corporate debtor had raised a fake complaint for invoice dated 31.07.2016 amounting to Rs. 5,63,213/-. That an amount of Rs. 26,820/- was paid as VAT by the applicant against the said invoice and VAT form 21A has been annexed to the application evidencing the transaction. That consequent to filling VAT form 201A, if there is any mismatch in the tax dues to be paid to the government, that would definitely reflect as mismatch and no such issue was raised by



the corporate debtor till date. That the sales made during the month of July, 2017 was never disputed and the email sent on 02.08.2016 annexed to the application carries all the information regarding the sales made to the corporate debtor during the month of July, 2016. If there would have been no supply during the month of July, 2016, the corporate debtor should have strongly objected the above email;

- The corporate debtor has never raised any dispute regarding quality or quantity of the goods supplied by the applicant;
 - Copy of two lorry receipts with regard to supply made to the corporate debtor in the month of July, 2016 along with details of truck number and quantity can also be reconciled with the details sent to the corporate debtor vide email dated 02.08.2016 and email dated 05.08.2016;
 - As a part of routine business practice, the applicant has sent to the corporate debtor copy of ledger account for F.Y. 2016-17 as per its books on the closure on 18.04.2017, but no question was ever raised by the corporate debtor;
10. As per part IV, Form 5 default has commenced against the invoices raised by the applicant from 30.06.2016 to 31.01.2017 which has to be paid within two months from the date of invoice. The application



is filed on 15.07.2019, which is within limitation and not barred by law.

11. Registered office of the corporate debtor is situated in Rajkot, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
12. In compliance of Section 9 (3) (b) of the IB Code the applicant has filed affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt.
13. Heard submissions and perused the documents on record. It is noticed that amount claimed by the applicant is Rs. 17,68,899/- which includes interest @ 18% per annum, whereas, amount admitted by the corporate debtor is Rs. 7,35,038/-. Contention raised by the corporate debtor that it has not received the goods supplied under invoice No. 470 dated 31.07.2016 raising dispute is not supported by any evidence to prove that there is any pre-existing dispute. In support of its claim, the applicant has brought on record list of sales along with relevant



VAT Form 21A which also shows that an amount of Rs. 26,820/- was paid by the applicant towards invoice No. 470 dated 31.07.2016.

14. In light of the above discussion, it is established that the debt is due and payable and default has occurred. Though corporate debtor is disputing the claim amount but has admitted an amount of debt which is more than threshold of Rs. 1.00 lac as per IB Code. Moreover, the corporate debtor has admitted part of the debt and has failed to bring on record any document in support of its contention that there was a genuine dispute prior to filing of this application. The present application is admitted, in terms of section 9 (5) of IBC, 2016.

15. During the course of hearing, on 10.06.2022, counsel for the applicant sought permission to file Form – 2 of the proposed IRP. Though permission was granted, till date, the applicant has not filed any document. Therefore, we hereby appoint Mr. Darshan Priyakant Shah as IRP of corporate debtor having address at 703, Aaryan Work Space -2 (AWS-2), Opp. Vasundhara Society, Near Navkar Public School, Gulbhai Tekra, Ambawadi, Ahmedabad 380 006 with registration No. IBBI/IPA-001/IP-P02559/2021-22/13893 subject to the condition



that no disciplinary proceedings are pending against him and specific consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.

16. We direct the Operational Creditor to deposit a sum of Rs.2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Darshan Priyakant Shah to meet the expenses to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

17. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the



provisions of Section 14 (1) shall follow in relation to the Corporate debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.

18. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records.
19. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

Sd/-

**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**

Nair/Abhishek Singh LRA