NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

11. C.P.(IB)-404(MB)/2020

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **28.02.2022**

NAME OF THE PARTIES: Kevin Ventures LLP

V/s

Suvishrhu Specialty Chemicals Pvt. Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Applicant, Mr. Siddha Pamecha and counsel for the Respondent, Mr. Vinay Patil are present through virtual hearing.

CP 404/2020

Heard both sides. The above Company Petition 404/2020 is admitted. Detailed order will follow.

Sd/-	Sd/-
CHANDRA BHAN SINGH	H.V. SUBBA RAO
Member (Technical)	Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT III

C.P. No. 404/IBC/MB/2020

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

KEVIN VENTURES LLP

Having registered office at: Kevin Ventures LLP, 1864, Tungareshwar House, Tungareshwar Industrial Estate, Opp. Saraswati Building, Sativali, Vasai (E)- 401208

……Operational Creditor

Vs

SUVISHRHU SPECIALTY CHEMICALS PVT. LTD

(CIN: U24118MH2008PTC179643)

Registered office at: Suvishrhu Specialty Chemicals Pvt. Ltd. W-220, Phase-II, MIDC Dombivali (E), Thane-421204. Maharashtra

…….Corporate Debtor

Order delivered on: 28.02.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. Siddha Pamecha

For the Respondent: Mr. Vinay Patil

The above Company Petition is filed by M/s. Kevin Ventures LLP hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Suvishrhu Specialty Chemicals Pvt. Ltd 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. 69,00,835/. (Principal amount of Rs. 57,65,996/- with interest @ 18% of Rs. 11,34,839/-)

BRIEF FACTS OF THE CASE

1. The Operational Creditor is a limited Liability Partnership Firm (LLP) registered under the Limited Liability Partnership Act 2008. The Operational Creditor is a Wholesaler/Distributor/Supplier of goods and supplied goods in the nature of chemical products to the Corporate Debtor.
2. The Operational Creditor submits that the Corporate Debtor is issued Purchase Orders to Operational Creditor and in accordance with the same, the Operational Creditor supplied goods and raised Invoices to the tune of Rs. 57,65,996/- for the goods supplied to Corporate Debtor from 21st June 2018 to 28th November 2018.
3. The Operational Creditor further submits that the Corporate Debtor owes an amount of Rs. 57,65,996/- to Operational Creditor in respect of invoices raised for goods supplied to Corporate Debtor. The Operational Creditor's Ledger Statement maintained in respect of Corporate Debtor Company for the period 1st April 2019 to 12th

November 2019 which reveals outstanding debt payable by Corporate Debtor.

4. The Operational Creditor further submits that the Corporate Debtor has acknowledged outstanding debt payable to Operational Creditor by way of confirmation of accounts letter dated 18th November 2019 which has been signed and stamped by Director/Authorized Signatory of Corporate Debtor Company.
5. The Operational Creditor further submits that despite several requests and reminders no payment was forthcoming from Corporate Debtor to Operational Creditor after 17th September 2019.
6. The Operational Creditor further submits that accordingly Operational Creditor herein issued Demand notice dated 05.12.2019 under section 8 of Insolvency Bankruptcy Code, 2016, to Corporate Debtor in respect of operational debt due.
7. The Operational Creditor further submits that the Operational Creditor's Demand Notice dated 05.12.2019 was dispatched by the Operational Creditor on 06th December 2019 which was duly received by Corporate Debtor at its Registered Office on 09.12.2019 by way of Registered Post AD.
8. The Operational Creditor further submits that the total operational debt being the outstanding amount due and payable by Corporate Debtor as per the calculations set forth in particulars of claim to the Operational Creditor's Demand notice dated 05.12.2019 along with interest @ 18% on the said amount which come to Rs. 69,00,835/- as on 30.11.2019.

9. The Operational Creditor further submits that despite Operational Creditor having supplied goods worth Rs. 58,65,996/- the Corporate Debtor only made solitary payment of Rs. 1,00,000/- on 17th September 2019 towards Tax Invoices raised by Operational Creditor for goods supplied.

FINDINGS

10. The Corporate Debtor did not choose to file any reply contesting above Company Petition despite taking so many adjournments on the ground of settlement and also not complied the conditional order dated 21.02.2022 before which date he was directed to settle the matter.

11. Heard the arguments of the counsel appearing for the Petitioner and perused the record. The Ld. Counsel appearing for the Applicant invited the attention of this Bench to the relevant invoices basing on which the above Company Petition is filed. The Ld. Counsel appearing for the Petitioner also invited the attention of Purchase orders placed by Corporate Debtor between June 2018 and November 2018 along with corresponding tax invoices raised by Operational Creditor and e-way bills between June 2018 and November 2018 in respect of goods supplied by Operational Creditor to Corporate Debtor as per Corporate Debtor's Purchase Orders. The Ld. Counsel appearing for the Applicant also invited the attention of this Bench to the demand notice along with the postal receipt and track report in proof of service of demand notice on the Corporate Debtor.

12. Since the Respondent/Corporate Debtor did not file any reply the claim of the Operational Creditor remains unchallenged.

13. After hearing the submissions of the counsels appearing for the Petitioner and upon perusing the material available on record, this Bench is of the considered opinion that the Operational Creditor has successfully demonstrated the existence of "debt" and "default" committed by the Corporate Debtor. The Operational Creditor also issued Demand Notice under section 8 of the Code for which the Corporate Debtor neither sent any reply by raising any dispute nor paid the outstanding dues of the Operational Creditor.

Since the invoices are pertaining to the period 2018, the above Company Petition being filed on 24.01.2020 is well within limitation. The Petitioner also suggested the name of the proposed IRP to be appointed in this case. Thus, the Petitioner has satisfied all the necessary legal requirements for admission of the above Company Petition and the above Company Petition deserves to be admitted.

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

ORDER

a. The above Company Petition No. (IB) 404(MB)/2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Suvishrhu Specialty Chemicals Pvt. Ltd.

b. This Bench hereby appoints **Mr. K. Venkata Ramana**, Email- venky4138@hotmail.com, Mob No.- 9810510930, Insolvency Resolution Professional, Registration No: IBBI/IPA-002/IP-N00853/2019-2020/12791 as suggested by Operational Creditor in the Company Petition.

a. The Operational Creditor shall deposit an amount of Rs.3 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.
b. 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.
c. 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.
d. 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.
e. 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.

f. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
g. 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.
h. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
i. Accordingly, this Petition is admitted.
j. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)