IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
DIVISION BENCH
COURT-III

IB-2120/(ND)/2019 filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In The Matter Of *M/s. Shri Gopal Agro Food Pvt Ltd*

M/s. BAAF ENGINEERS PVT LTD. ....Operational Creditor

Versus

M/s. SHRI GOPAL AGRO FOOD PVT LTD

....Corporate Debtor

Order delivered on 16th January, 2020

CORAM:
CH. MOHD. SHARIEF TARIQ
Member (Judicial)
Ms. SUMITA PURKAYASTHA
Member (Technical)

For Operational Creditor: Mr. Waseem Akram Razvi
For Corporate Debtor: Ex-Parte

ORDER

1. The Ld. Counsel for the Operational Creditor/Applicant is present. There is no representation on behalf of the Corporate Debtor. As seen from order dated 18.09.2019, the Corporate Debtor was proceeded ***Ex-Parte***.

2. Under consideration is an Application IB-2120/(ND)/2019, filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016), seeking prayers to initiate the CIR Process against the Corporate Debtor viz. *M/s Shri Gopal Agro Food Private Limited,* declare moratorium and appoint

Interim Resolution Professional (IRP) on the ground that the Corporate Debtor failed to pay the debt and has become insolvent.

3. The Counsel for the Applicant has submitted that the claim is of Rs.16,32,000/-. It is further submitted that the Operational Creditor is engaged in the business of supplying equipments i.e. milk silo (capacity 20Kl) with accessories. On the request of the Corporate Debtor, equipments were supplied by the Operational Creditor and invoice was raised on 13.02.2015 for an amount of Rs.16,32,000/-.However, the Corporate Debtor failed to pay the same.

4. It is further submitted by the Counsel for the Operational Creditor that the claim is within the period of limitation. She has referred to the balance sheet of the Corporate Debtor as on 31.03.2017, wherein under Schedule 5 trade payables are detailed and at Sl.No.2 the name of the Operational Creditor is mentioned against which an amount of Rs.13,32,501/- is recorded. The said Balance Sheet has been signed on 25.08.2017. Therefore, the same is the confirmation of the balance amount. However, there is mismatch in the amount of claim and the trade payables noted under the balance sheet of the Corporate Debtor. In any case, the claim is more than the threshold of Rs.1.00 lakh. The Operational Creditor has also placed on record a declaration under Form- C of the Central Sales Tax (Registration & Turnover) Rules 1957, issued and signed by the Corporate Debtor on 13.07.2015.

5. The Operational Creditor has complied with the provisions of Section 9(3)(b)&(c) by placing on record an affidavit to the effect that no notice of pre-existing dispute has been given. Account statement and Ledger Account are also placed on record in compliance of Section 9 (3) (c), with effect from 01.04.2017 to 31.03.2018, wherein the closing balance shown is Rs.16,32,000/-. The Operational Creditor has sent notice under Section 8 to the Corporate Debtor on 27.10.2018 to which no reply has been given by

the Corporate Debtor. Therefore, the Application is ***admitted*** and the commencement of the CIRP is ordered, which ordinarily shall be completed within 180 days, reckoning from the day this order is passed.

6. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, 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 (54 of 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.

7. The supply of essential goods or services of the CD shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

8. The Operational Creditor has not proposed the name of any Resolution Professional for appointment as IRP. Therefore, Mr. Vinay

Kumar Singhal registered with IBBI is hereby appointed as IRP, who will file an affidavit in the Registry declaring there is no conflict of interest and there is no disciplinary proceeding pending against him. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed. The details are as under:

Name: Mr. Vinay Kumar Singhal

Registration number: IBBI/IPA-002/IP-N00624/2018-19/11880,

E-mail: vinaysinghal.ip@gmail.com

Mobile: 9997333663.

9. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of IBC, 2016. The Directors of the Corporate Debtor, its Promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the IBC, 2016.

10. The Operational Creditor and the Registry are directed to send the copy of this Order to the IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of IBC, 2016.

11. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor with immediate effect.

12. The Order is dictated and pronounced in the open court in the presence of the Ld. Counsel for the Operational Creditor.

-Sd- -Sd-

(SUMITA PURKAYASTHA)
MEMBER (TECHNICAL)

(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)

U.D.Mehta/V