

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH,

KOLKATA

**C.P (IB) No.1540/KB/2019
AND**

IA (IBC)/1671/KB/2019

In the matter of

An application under 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016.

And

In the matter of:

Jai Kishor Gupta, Proprietor of M/s Lalta Prasad Shaw & Co. having its registered office at 11/1, Nather Bagan Street, Kolkata-700005.

... Operational Creditor

Versus

In the matter of:

Balaji Paper & Newsprint Private Limited (CIN: U21013WB1998PTC087316), having its Registered office at 23, Brabourne Road, Kolkata-700001.

...Corporate Debtor

Date of hearing :23 /03/2022

Order Pronounced on : 06 /05/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

Counsels appeared through Video Conference

1. Mr. Shiv Shankar Banerjee, Adv.
2. Mr.Arik Banerjee, Adv.

] For Operational Creditor

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3. Ms. Arijita Ghosh, Adv.
1. Mr. Jishnu Chowdhury, Adv.] For the Corporate Debtor
2. Mr. Saunak Mitra, Adv.
3. Ms. Rashmi Singhee, Adv.
4. Ms. Shubhangini Singh, Adv.
5. Mr. A.K.Singh, Adv.

ORDER

Per: Harish Chander Suri, Member (Technical)

1. The Court is convened by video conference today.
2. This petition under 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016 has been filed by **Jai Kishore Gupta** , proprietor of M/s Lalta Prasad Shaw (hereinafter referred as the Operational Creditor), seeking initiation of corporate insolvency resolution process in respect of **Balaji Paper & Newsprint Private Limited**, a corporate entity, having its Registered office at 23, Brabourne Road, Kolkata-700001, (hereinafter referred as the Corporate Debtor).
3. It is submitted that the Operational Creditor is inter alia engaged in the business of acquiring and selling waste paper and agreed to supply paper to the Corporate Debtor, when it approached the Operational Creditor on mutually agreed terms and conditions. It is submitted that the Corporate Debtor is, inter alia, a trader, manufacturer, supplier and distributor of craft-paper, printing paper etc. For that purpose, the Corporate Debtor purchased the waste paper and with a proposal of purchasing waste paper had approached Operational Creditor. Pursuant to several discussions between the parties, the Operational Creditor started supplying waste paper to the Corporate Debtor and good relationship existed between them till June 2018. However beyond June, 2018 till 26th March, 2019. The Operational Creditor in good faith supplied goods to the Corporate Debtor from both its registered office at Kolkata and branch office at Jharkhand but did not receive any payment against the same. It is submitted that during this period waste paper

was supplied by the Operational Creditor under several tax invoices and the same were received by the Operational Creditor by issuing a raw material quality analysis report. It is further submitted that during the period between June, 2018 till 26th March, 2019, the total outstanding dues against the goods supplied by the Operational Creditor to the Corporate Debtor was Rs.9,63,34,204/- and after adjustment against the last part payment received by the Operational Creditor from the Corporate Debtor, the outstanding stood at Rs.9,61,35,795/-, which the Corporate Debtor has not cleared in spite of repeated requests by the Operational Creditor. It is submitted that on 17th June, 2019, the Operational Creditor issued a Demand Notice in prescribed Form -3 and Form-4 to the Corporate Debtor in terms of the IBC, 2016 for payment of the unpaid operational debt. The said notices were sent through speed post and were duly received by the Corporate Debtor on 19th June, 2019. It is submitted that the Corporate Debtor has failed to bring to the notice of the Operational Creditor either the existence of any dispute and record of the pendency of any suit or arbitration proceedings filed before receipt of such notice or invoice in relation to such dispute or the payment of the unpaid operational debt. Hence, the Operational Creditor has filed the present petition for initiation of CIRP process against the Corporate Debtor.

4. The Operational Creditor has enclosed with the application all the relevant documents, which are as under:-

- i. A copy of registration certificate automatically generated from the GST portal of the proprietorship firm Lalta Prasad Shaw & Co. run and managed By Mr. Jai Kishor Gupta, from Kolkata and Jharkhand offices. (Annexure-I).*
- ii. Letter of Authorisation issued in favour of Ms. Rhituparna Mazumdar and Ms. Arijita Ghosh, Advocates, (Annexure-II)*
- iii. Master Data of Corporate Debtor (Annexure-III).*
- iv. Affidavit in support of this application,(Annexure-IV).*
- v. Copy of all outstanding tax invoices, challans and the corresponding Raw Material Quality Analysis Report along with Ledger maintained by Operational Creditor on account of*

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- Corporate Debtor with respect to goods supplied from the Operational Creditor's Jharkhand Office, (Annexure-IV A),*
- vi. Copy of few tax invoices, challans and the corresponding Raw Material Quality Analysis Report along with Ledger maintained by Operational Creditor on account of Corporate Debtor with respect to goods supplied from the Operational Creditor' Kolkata Office, (Annexure IV B).*
 - vii. Table showing computation of interest and overdue amount (Annexure V)*
 - viii. Copy of Demand Notice dated 17/06/2019 in prescribed Form 3 and 4 under the IBC, 2016, along with postal receipts, acknowledgement due card and track record downloaded from the official website of Indian postal services (Annexure VI).*
 - ix. Bank Statement of Operational Creditor, (Annexure-VII).*
 - x. A copy of the Bank draft no. 473073 dated 05.08.2019.(Annexure-VIII).*
 - xi. Affidavit affirmed by the applicant under section 9(3)(a),(b) and (c) of the Insolvency and Bankruptcy Code, 2016.(Annexure-X)*
 - xii. A copy of affidavit of Service of application under section 9 by the Operational Creditor to Corporate Debtor (Annexure-X).*

5. In the reply affidavit filed by the Corporate Debtor authorized signatory Mr. Manoj Kumar Singhania, It is submitted that the application has been filed by the Operational Creditor in abuse of process of law and is mala fide and vexatious proceeding. It is submitted that the Operational Creditor has not approached this Adjudicating Authority with clean hands and does not deserve any relief or orders and that the application suffers from gross suppression of material facts. It is further submitted that the claim of the Operational Creditor is barred by law of limitation and there is no compliance with the mandatory provisions of Section 9 of IBC.

6. It is submitted that the application has been filed with fraudulent and

malicious motive and for the purposes other than to resolve any insolvency of the Corporate Debtor. It is submitted that the parties have several transactions over a continuous period of time for last several years. But from the year 2015, the quality of goods supplied by the applicant to the Corporate Debtor deteriorated significantly as a result of which, the Corporate Debtor suffered loss and damage. It is submitted that the Corporate Debtor had brought up all these issues and discussed on several occasions with the Operational Creditor with its representative in meetings and issued several letters. It is submitted that the letter dated 17/03/2015 highlighted the issues of deteriorating the quality of waste paper supplied (Annexure-B). Letter dated April 21, 2015 issued by the Corporate Debtor to the Operational Creditor again highlighted the inferior quality on goods supplied. Letter dated July 10, 2015 issued by the Corporate Debtor specifically pointed out that the quality of waste paper supplied is obsolete and had resulted in heavy loss to the Corporate Debtor (Annexure-D). It is submitted that the Corporate Debtor had, inter alia, called upon the Operational Creditor to resolve the quality issues by issuing credit notes for the bad consignment pursuant to discussions between the parties. It is submitted that that letter dated August 20,2015 issued by the Corporate Debtor placing on record the damage sustained by the Corporate Debtor equipment due to mixing of foreign articles along with the waste paper supplied by the Operational Creditor and calling upon it to issue credit note to resolve such issue. It is further submitted that a similar letter dated September 8,2015 was issued by the Corporate Debtor that an amount of Rs.10,00,000/- had been remitted based solely on the applicant's assurance to settle the account by issuing credit note for inferior quality of supply. The Corporate Debtor had further submitted that it has suffered loss of more than 4 Crore on this account (Annexure-F). It is stated that various similar letters were issued by the Corporate Debtor dated 25th September,2015 regarding non cooperation from the Operational Creditor (Annexure-G). Letter dated 21st November, 2015 was issued by the Corporate Debtor to follow up the earlier letter issued in this regard. It is stated that letter dated 25th March, 2016 was written to inform the applicant that due to

the failure and neglect of the Operational Creditor to take any steps to resolve the pending issues, the Corporate Debtor would be compelled to write off the balance in the books (Annexure-I). Even, thereafter innumerable letters are stated to have been written by the Corporate Debtor to Operational Creditor.

7. It is stated by the Corporate Debtor that the Corporate Debtor has made full payment to the Operational Creditor for the material of proper quality that were received by the Corporate Debtor. After adjusting for such payment made by the Corporate Debtor and taking into account inferior quality of materials supplied, for which the Operational Creditor had agreed to but has failed to issue credit notes, there is no further amount due or payable by the Corporate Debtor to the Operational Creditor. It is submitted that on the contrary, the Operational Creditor is liable to compensate Corporate Debtor for the loss and damages suffered by the Corporate Debtor in the facts and circumstances stated above.

8. It is submitted that raw material quality analysis reports disclosed in the application clearly evidence that the quality of material supplied was not as per specification. However, it is to be noted that these reports were prepared at the time of unloading of the material from the truck and after unloading, it is submitted, that the material supplied of inferior and or unusable quality which could be discovered at the time of unloading.

9. It is submitted that there are serious and genuine pre-existing disputes regarding alleged claim by the applicant and the application is therefore, liable to be dismissed in limine with exemplary costs.

10. It is submitted that the allegations made in the application are afterthought and it is an attempt by the applicant to wrongfully misuse the provisions of IBC, 2016 to put wrongful pressure on the Corporate Debtor.

11. The Operational Creditor filed **rejoinder affidavit** of one Jai Kishore

Gupta. The Operational Creditor denied each and every fact mentioned in the reply affidavit and reiterated the facts stated in the petition. It is denied that there is no compliance with the mandatory provisions of section 9 of the Code and the Regulations framed thereunder or that the application is ex-facie defective as alleged by the Corporate Debtor. The Operational Creditor has further submitted that the Corporate Debtor had never raised any dispute about the quality of the products supplied to it by the Operational Creditor will be evident from the usual mode of communications adopted by the Operational Creditor and the Corporate Debtor. It is submitted by the Operational Creditor that the communication between the Corporate Debtor and the Operational Creditor were always through electronic mails. Infact during the period between 2018 to 2019 about 350 electronic mails were exchanged between the Operational Creditor and the Corporate Debtor and on perusal of the emails, it will be clearly evident that the Corporate Debtor had never raised any disputes or marked any protest on account of poor or low quality material supplied by the Operational Creditor. It is submitted that the Operational Creditor is willing to give inspection of the correspondences, if so requested by the Corporate Debtor. Operational Creditor has denied all the allegations made by the Corporate Debtor in its reply affidavit.

12. During the course of arguments, the Ld. Counsel for the Operational Creditor argued that the present application under section 9 of the Insolvency and Bankruptcy Code, 2016 has been filed by the Operational Creditor against the Corporate Debtor which does not have the financial wherewithal to pay off the operational debt to the Operational Creditor. The Operational debt aggregated is about Rs.10,01,81,400/- on 6th August, 2019.

13. It is submitted by the Ld. Counsel for the Operational Creditor that till 26th March, 2019, the applicant supplied raw material to the corporate debtor, for which invoices were raised, remained unpaid. The Corporate Debtor received the raw materials along with invoices without raising any demur or protest. It is submitted that the applicant supplied waste paper to the corporate debtor. The product 'waste paper' is an article for which GST has to

be paid thereon. When the raw materials were being supplied to the corporate debtor, usually it was the process that the applicant raised tax invoices with the materials supplied. Along with the tax invoice the applicant also issued a challan for the same for the smooth transit and delivery. On the basis of the said tax invoice and challan the corporate debtor while accepting the goods/ raw material, issued raw material quality analysis report corresponding to each consignment. It is submitted that the product/raw material as received by the corporate debtor was also indicated in the said raw material quality analysis report. It is submitted that for example if one tax invoice is considered, which is appearing at page 25 of the petition, it's corresponding challan appearing at page 26 and the corresponding raw material quality analysis report appears at page 27. In the said report the corresponding challan number is also clearly indicated.

14. It is further submitted by the Operational Creditor that the raw material quality analysis report was prepared by the Corporate Debtor at its factory and by its men and agents. The report contained three column: 1, Antique Copies, 2. Cover and 3. Unusable. In every column, it would be found that whichever raw material is not usable in nature are indicated in the report against which appropriate credit notes have been granted by the Operational creditor to the Corporate Debtor from time to time. The remaining/undisputed raw material has been consumed by the corporate debtor.

15. It is submitted that the Corporate Debtor consumed all the raw material supplied to it by the Operational Creditor on credit and failed and neglected to pay the consideration thereof. As a consequence thereof, the operational creditor issued a demand notice dated 17th June, 2019 in the prescribed format, being Form No.3 and 4.

16. It is further submitted by the Ld. Counsel for the Operational Creditor that after receiving the aforesaid Demand Notices, the Corporate Debtor could neither point out the existence of any dispute, pending suits or litigation nor could they supply any proof supporting repayment of unpaid operational debt

and hence the instant application was filed. The corporate debtor thereafter entered appearance in the matter and filed a detailed affidavit in reply. The contentions of the corporate debtor in its affidavit of reply are:

- a. That the operational creditor had purportedly supplied sub-standard raw material and
- b. Accounts between the parties have been settled.

17. It is submitted that in its reply, the Corporate Debtor has heavily relied upon a few documents being Annexures B,C,D,E,F,G and H to the said reply. Annexure B to F of the said Reply appearing at pages 22-30 of the said Reply, are all related to a period which are not relevant to the instant case.

18. It is submitted that in its Rejoinder affidavit, the Operational Creditor has submitted that the said documents are not only forged, fabricated and manufactured for the purpose of playing fraud upon the operational creditor as well as this Adjudicating Authority.

19. It is submitted that with respect to the document appearing at page 31 of the Reply filed by the Corporate Debtor, i.e. Annexure M, there is clear admission by the Corporate Debtor that a sum of Rs.3,09,09,776/- is in fact due and payable. The settlement as indicated in the said letter was neither agreed upon nor acted upon by the parties. The aforesaid document cannot be enforced upon the present applicant since it was a letter, unilaterally written by the corporate debtor and does not constitute any legally binding contract.

20. It is submitted that moreover, in the present case, every transaction is supported by GST document. Under the provisions of the Goods and Services Tax Act, any material sold or purchased has to be disclosed in the GST return. Any credit note which is to be accepted by both the parties has also to be also disclosed in the GST return. If any credit note is not shown in the GST return, it is presumed that no credit note is being used by any of the parties and the parties to the transaction are liable to pay GST on such goods. In the instant case the corporate debtor has accepted the entire delivery without protest or

demur. The Corporate Debtor has utilized the said raw material and has never returned any material. The GST return as filed by the applicant has never been disputed by the Corporate Debtor. On the basis of letter dated 27th January, 2018 i.e. Annexure-M to the Reply filed by the corporate debtor, it has taken no legal steps to enforce such purported right, if any, as is now being falsely claimed.

21. It is submitted that the entire reading of the pleadings, it is crystal clear that the corporate debtor has accepted the material, used the material and has availed GST input on the material and only to evade payment, they have set up a defence which is not tenable in the eyes of law and has placed reliance on documents which are forged, fabricated and manufactured. It is submitted that the Corporate Debtor in usual course, used to dispatch Panjikas in sealed envelopes through speed post to the Operational Creditor. Each time, upon receiving the same, the applicant replied to the Corporate Debtor via whatsapp message, acknowledging the receipt of such Hanumanth Panchang and conveying thanks. However, to the utter astonishment of the operational creditor, the speed post tickets corresponding to one such consignment has been relied upon as proof of delivery of a letter that has never been seen before by the Operational Creditor.

22. It is submitted that the Corporate Debtor has attempted to play fraud upon the operational creditor as well as this Adjudicating Authority with an intention to frustrate the purpose of the Operational Creditor in filing the instant application.

23. During the course of arguments, the Ld. Counsel for the Corporate Debtor argued that the present petition under section 9 of the Insolvency and Bankruptcy Code, 2016 is in respect of an alleged claim arising out of transactions for sale and delivery of waste paper. The petition is not maintainable inasmuch as there are serious pre-existing disputes between the parties. It is submitted that Pre-existing disputes between the parties would be evident from the following facts which have all been suppressed in the

section 9 application:-

- (a) While it is being contended in the course of submissions that the relationship between the parties started souring from 2018, that is not the actual position. From 2006, supplies were being made by the Corporate Debtor to Operational Creditor. Business transactions started in 2006 and have continued without any problems till 2014-15.
- (b) From the year 2015, there were quality issues, which were raised by the Corporate Debtor. The Goods were of deficient quality and were therefore not acceptable to the Corporate Debtor. Moreover, damage was caused to the Corporate Debtor and its machines entitling the Corporate Debtor to compensation. That the quality issues were raised between 2015 to 2018 would be evident from letters dated 17th March, 2015 at page 20, 21st April, 2015 at page 21, 10th July, 2015 at page 22, 20th August, 2015 at page 23 , 8th September, 2015 at page 24, 25th September, 2015 at page 25, 21st November, 2015 at page 26, 25th March, 2016 at page 27 (This letter also records that Corporate Debtor has suffered losses worth more than Rs.4 Crore),28th September, 2016 at page 28, 2nd April, 2017 at page 29 and 22nd July, 2017 at page 30. All these letters have been received by the Corporate Debtor.
- (c) By January, 2018, it was mutually agreed between the parties that a sum of Rs.3,09,09,776/- has been adjusted for the quality issues over the years. For such sum, the Operational Creditor was to issue a credit note to the Corporate Debtor. Thereafter and upon receipt of the credit note, the Corporate Debtor would make payment of a sum of Rs.8 lakhs to the Operational Creditor. This letter was sent by speed post and was received by the Operational Creditor. Despite the Speed Post delivery proof annexed to the Reply, in the Rejoinder, vague denial has been made by the Operational Creditor regarding receipt of the letter. It is evident that Operational Creditor received the letter, accepted the contents, acted upon the understanding mentioned in the letter and is now falsely seeking to deny such facts.
- (d) Despite the fact that no credit note was issued to the Corporate Debtor,

it made payment of a sum of Rs.8 lakhs, it is evident from the bank statement at pages 34 and 35. Therefore, by agreement, these claims were settled. As on January, 2018, no amount was payable.

- (e) It was on the promise to supplying better and proper goods that the parties subsequently recommended business as evident from the letter dated 28th May,2018 @ page 37. Transactions recommenced after two years. However, again, there were quality issues. It is seen from letter dated 7th March, 2018 @ page 36, 28th May, 2018 @ page 37, 19th July, 2018 @ Page 38. Postal receipt @ page 39 and proof of delivery @ page 40.
- (f) The letter dated 19th July, 2018 being Annexure 'Q' to the Reply, was sent by Speed post and in the Rejoinder, there is no denial of receipt of the same by Operational Creditor. Only a vague and meaningless allegation is made that the delivery report is "incomplete".
- (g) The fact that the Corporate Debtor had suffered losses is again recorded in letter dated 30th November, 2018 @ page 42. This letter records that the Corporate Debtor has incurred losses of approximately Rs. 2,50,00,000/- due to use of the sub standard material supplied by the Operational Creditor and that the Corporate Debtor has paid Rs.32,28,470/- in excess to the Operational Creditor. Further, a letter dated 13th April, 2019 recording the loss for deficient quality of supply was issued by Corporate Debtor @ page 43, postal receipt @ page 44, proof of delivery @ page 45, confirmation by postal authorities @ page 46. In the said letter dated 13th April, 2019, the Corporate Debtor clearly recorded that in view of the deficient quality, no further sums would be received by Operational Creditor and there would be complete settlement between the parties. There is no dispute by Operational Creditor to the receipt of this letter. However, the Operational Creditor has baselessly and with mala fide purpose in the Rejoinder sought to allege that a 'Panjikas' was sent by such communication (page 16 of Rejoinder).This is a totally false allegation and the Whatsapp message disclosed at Annexure R/3 of the Rejoinder is a totally irrelevant

message unconnected with the Operational Creditor. The Operational Creditor is deliberately trying to mislead this Adjudicating Authority, realizing fully well that several letters evidencing pre-existing disputes have been received by the Operational Creditor.

- (h) It is shortly after this letter that this letter that on 17.06.2019, the Operational Creditor issued the purported section 8 demand notice.
- (i) The Operational Creditor has alleged that the raw material quality Analysis report issued against each consignment of goods is an afterthought to escape its liability. Such a contention is false, baseless and absolutely unfounded. The raw material quality Analysis report issued by the Corporate Debtor is a visual inspection report of raw material's quality at the time of unloading and the final report may change after opening of bales and lab testing (please refer to the raw material quality Analysis reports at pages 27,31,36, etc.
- (j) In view of the fact that the credit notes were not issued, there could be no obligation on the part of the Corporate Debtor to reverse input tax credit. Under the GST laws, there cannot be reversal of input tax credit without issuance of credit note. Thus, the Operational Creditor's contention that input tax was not reversed by the Corporate Debtor in respect of the disputed goods is totally baseless and such allegation is an attempt by the Operational Creditor to take advantage of its own wrongs. Repeated demands had been made by Corporate Debtor for issuance of credit note but to not avail. **It is admitted in the Rejoinder that the Operational Creditor did not issue any credit note as requested (para (x), page 13 of Rejoinder)**
- (k) In the Rejoinder, the Operational Creditor having received the letters which were hand delivered. It disputes the signature and the stamp of the Operational Creditor. Such contention is false and these arguments ought not to be heard in a proceeding of this nature. Moreover, in respect of the documents received by Speed Post, the Corporate Debtor falsely contends that the letters were not received and other documents were sent. These defences are false and ought not to be countenanced.

24. It is submitted that non- issuance of formal reply to the Section 8 demand notice will not preclude the Corporate Debtor from opposing the petition particularly in view of the serious pre-existing disputes that have been demonstrated in the Reply Affidavit. The applicant will be required to prove its case even in the absence of a reply by the Corporate Debtor to the Form-3 notice.

25. We have gone through and considered all the pleadings and documents placed before us and heard the parties in detail. It would be clear from the record that the Corporate Debtor did not respond to Section 8 Notice served on it, which was an opportunity provided to the Corporate Debtor to place its defence by informing the Operational Creditor about any payments as and when made, out of the outstanding operational debt being claimed by the Operational Creditor. At that stage, the Corporate Debtor could have also informed the Operational Creditor as regards any pre-existing disputes. We notice with surprise that when the Corporate Debtor did not place anything by way of any reply to the said notice, in its reply affidavit filed in response to the petition, he came out with so many so called pre-existing disputes which have been clearly denied by the Operational Creditor. The Operational Creditor submitted in its rejoinder that Annexures B,C,D,E,F,G, H, I, J, K, L, O,P,R and S are the documents which are false, fabricated and manufactured after initiation of the present proceedings under section 9 of the Code. It is rightly submitted by the Operational Creditor, which a proprietorship concern of Jai Kishore Gupta that the aforesaid annexures stated to have been handed over to some one other than the proprietor on his behalf cannot be relied upon. These documents are stated to have been initials and sealed by somebody else on behalf the Operational Creditor. It is submitted that the stamps and seals purportedly used on behalf of the Operational Creditor have been clearly denied by the Operational Creditor. According to the Operational Creditor, he has never authorised any person to accept or issue letters or communicate with any vendors or suppliers on his behalf. It is submitted by the Operational Creditor that from 2018 to 2019 about 350 electronic mails

were exchanged between the Operational Creditor and the Corporate Debtor from which, it would be clear that the Corporate Debtor had never raised any disputes or marked any protest on account of poor or low quality materials supplied by the Operational Creditor. Therefore, the documents being produced with the reply by the Corporate Debtor are manufactured and an afterthought.

26. After going through all documents, we are not convinced with the version of the Corporate Debtor placed before us or the documents filed with the reply. The amount claimed is outstanding on account of the supplies made, and payable by the Corporate Debtor to the Operational Creditor. Section 8 Notice has been duly delivered but not responded to by the Corporate Debtor. The pleas taken by the Corporate Debtor as regards pre-existing disputes could not convince us, and are therefore rejected.

27. In view of the aforesaid pleadings of the parties, we consider it to be a fit case for admission of the petition, we , therefore, pass the following orders:-

ORDERS

- i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, is hereby **admitted**.
- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of

sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
- 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.
- v) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

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- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) The Operational Creditor has not proposed name of any Insolvency Resolution Professional. Therefore, as per the provisions of Section 16(3) (a) of the IBC, so, we appoint Mr. **Bijay Murmuria , IRP** having Reg. No. **IBBI/IPA-001/IP-N00007/2016-2017/10026**, email bijay_murmuria@sumedhamanagement.com act as Interim Resolution Professional (IRP). He shall file Form-2, and that no disciplinary proceedings are pending against him with the Board.
- x) **Mr. Bijay Murmuria ,IRP**, is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.
- xi) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.

xii) The Operational Creditor/Applicant is directed to deposit **Rs.5,00,000/- (Rupees Five Lac only)** with the IRP appointed hereinabove within three days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.

28.IA (IBC)/1671/KB/2019 is dismissed.

29.Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.

30.List the matter on **30/06/2022** for filing of **Progress Report**.

31. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on the 06th day of May, 2022

PJ.