NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

11. C.P.(IB) -2613(MB)/2019

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 **04.08.2021**

NAME OF THE PARTIES: Gulab Fibers

V/s

ANV Techfab Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Shivangi Kedia, counsel for the Operational Creditor and Mr. Anaveer Nanna, Director of the Company for CD are present through virtual hearing. Mr. Anaveer Nanna submits that he is ready and willing to settle the matter with the Operational Creditor. He further submits that the CD has several claims of third parties also and the Company is trying its hard to settle the dues. The above Company Petition is filed basing on the consent terms as second round of litigation and therefore the request cannot be considered.

Accordingly, the above Company Petition is admitted vide separate order.

Detail 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. 2613/IBC/MB/2019

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

Mr. Mahesh Goyal, Proprietor of M/s Gulab Fibres
Flat No. 202, 2nd Floor, Irena Apartment, Hanuman Road, Opp. Cosmos Bank, Parle Tilak School Compound, Vile Parle (E), Mumbai-400057

……**Operational Creditor**

Vs

M/s ANV Techfab Pvt. Ltd.
(CIN: U17221PN2014PTC151238)
Flat No. B-301, Aarav, H.No.28/1+3+4, Survey No. 28, Behind Mhasoba Mandir, Kothrud, Pune-411038

…….Corporate Debtor

Order delivered on: 04.08.2021

Coram:

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

For the Applicant: Ms. Shivangi Kedia

For the Respondent: Mr. Anaveer Nanna (Director of the Company)

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. The above Company Petition is filed under section 9 of the Code by Mr. Mahesh Goyal, Proprietor of M/s. Gulab Fibres hereinafter called as 'Operational Creditor' for ordering initiation of Corporate Insolvency Resolution Process (CIRP) against M/s ANV Techfab Pvt. Ltd hereinafter called as 'Corporate Debtor'.
2. The brief facts of the Petition are that the Petitioner/Operational Debtor previously filed Company Petition bearing no. 179/2018 on the file of this Bench for resolution of debt of an amount of Rs. 8,27,779/-. Subsequently, the Petitioner and the Corporate Debtor filed consent terms before this Bench on 03.05.2018 under which the Corporate Debtor agreed to pay 7,00,000/- and issued a cheque bearing no. 010112 on 11.05.2018 for a sum of 7,00,000/- drawn on Bank of India, Solapur Branch.
3. The Applicant states that when the said cheque was presented for encashment, the same was dishonored with the remark "Funds Insufficient". The Applicant states that immediately after dishonor of the said cheque, the Corporate Debtor has made payment of Rs. 1,00,000/- to the Operational/Creditor.
4. It mentioned that after dishonor of the said cheque, Advocate for the Operational Creditor by his Notice dated 4th June, 2018 called upon the Corporate Debtor to make the payment of the amount of Rs. 6,00,000/- (after deducting the payment of Rs. 1,00,000/-) in lieu of the dishonored cheque, failing which necessary application will be made before this hon'ble Tribunal. The said notice dated 04.06.2018 was duly received by the Corporate Debtor. However, even after receipt of the

said Notice, the Corporate Debtor failed to make the payment of the outstanding amount.

5. The Operational Creditor states that thereafter the Corporate Debtor have paid further sum of Rs. 50,000/- leaving behind principal sum of Rs. 5,50,000/-. Accordingly, once again 2nd notice was issued on 18th October, 2018. This notice was also received by the Corporate Debtor.
6. In spite of receipt of the second notice, the Corporate Debtor failed to make the payment of outstanding amount of Rs. 5,50,000/-. However, after receipt of the second notice, the Corporate Debtor vide its letter dated 24th October, 2018 replied the same, admitted their liability and given vague excuse for non-payment but did not disputed his liability and assured to make the payment shortly. Hereto annexed and marked a copy of the Reply dated 24.10.2018 issued by the Corporate Debtor.
7. The Operational Creditor submitted that in spite of receipt of the legal notices on two occasions, the Corporate Debtor failed to make the payment. Hence the above Company Petition.
8. The matter has been listed on board from time to time since August 2019. The Director of the Corporate Debtor is putting up appearance regularly before this Bench and did not choose to file any reply. On the other hand, the Director of the Corporate Debtor admitted the liability and made a statement that they will discharge the liability of all their creditors in few days. However, nothing happened. Finally, on 04.08.2021 when the matter was listed on board for final hearing Mr. Anaveer Nanna, Director of the Company appeared through virtual hearing and made the same request which is outrightly liable to be rejected. It is very clear from the conduct of the Corporate Debtor and the various orders passed by this Bench

from time to time that the Corporate Debtor having admitted the liability is not inclined to resolve the same and the above Company Petition shall be admitted forthwith.

9. Therefore, for the reason stated above, there are no valid grounds warranting the rejection of the above Company Petition as the debt and default are clearly established and the debt is also within limitation. Thus, the present Company Petition satisfies all the necessary requirements for admission.

10. Accordingly the Company Petition is admitted by passing the following:

ORDER

a. The above Company Petition No. (IB) -2613(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s ANV Techfab Pvt. Ltd

b. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Anshul Pathania** (anshul.pathania@gmail.com), Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01529/2019-2020/12461 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs.2 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.

d. 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.
e. 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.
f. 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.
g. 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.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. 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.
j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

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)