

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IBA/83/2020 filed under section 9 of
the Insolvency and Bankruptcy
Code, 2016 r/w Rule 6 of the
Insolvency Bankruptcy (Application
to Adjudicating Authority) Rules,
2016.

In the matter of M/s. Selathaar Tanning Industries Private Limited

M/s. Amit Dye Chem,
Rep. by its Proprietor,
Mr. Arvind Kumar, No.86, Govindappa,
Naicken Street, 1st Floor, "Moti Complex",
Chennai-600001.

---Operational Creditor

V/s

M/s. Selathaar Tanning Industries Private Limited
[CIN: U9112TN2001PTC046879]
No.1C, TANGY, 34/4, Dr.P.V.
Cherian Crescent, Egmore,
Chennai-600008

---Corporate Debtor

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

Counsel for Applicant : *Mr. Ramaswamy Meyyappan, Advocate*
Counsel for Corporate Debtor : *None present*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order pronounced on: 09.04.2021

This is an Insolvency and Bankruptcy Application (in short "IBA") filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (in short, **IB Code, 2016**) r/w Rule 6 of the Insolvency and Bankruptcy (Application of Adjudicating Authority) Rules, 2016 (for brevity, **AAA Rules 2016**) by M/s. Amit Dye Chem (hereinafter referred as "**Operational Creditors**") for initiate Corporate Insolvency Resolution Process (in short "**CIRP**") against M/s. Selathar Tanning Industries Private Limited (hereinafter referred as "**Corporate Debtor**") on the ground that the Corporate Debtor defaulted in paying Rs.12,04,132/- as on 02.03.2018 along with interest at the rate of 24% per annum.

2. This application was filed on 25.09.2019 and numbered as IBA/83/2020 and notice was issued to the Respondent by the Registry to the registered office address of the Corporate Debtor which was received by the respondent on 25.01.2020. As there was no representation on behalf of the Respondent, another private notice was ordered on 27.02.2020. However, there was no representation for the respondent. When the matter was listed on



07.09.2020, the counsel for the Petitioner stated that a notice sent to the registered office of the Corporate Debtor had been returned with an endorsement "*Unserved*". Fresh notice was ordered. Again, when the matter was taken up for hearing on 05.11.2020, the counsel filed affidavit of service stating that the notice sent to the Corporate Debtor was returned unserved with postal endorsement "*Addressee left without instructions*". Finally, the summon by way of notice was served on the respondent at the registered office, at the place of business and other known address of the Corporate Debtor. Accordingly, the counsel for the petitioner took notices to the respondent on three different addresses. Notice sent to the place of business was returned with postal endorsement "*refused*" and notices sent to two other places including the registered office of the Corporate Debtor were returned with an endorsement "*left*". Hence, by an order dated 08.02.2021, the respondent was set "*ex-parte*" by this Adjudicating Authority.

3. It is submitted that the Operational Creditor supplied chemical products including Sodium Bicarbonate, Soda Ash, Hypo,



Sodium Formate, Oxalic Acid etc for which invoices were raised for the services provided to the Corporate Debtor. Details of invoices against which the payments are due from the Corporate Debtor as given under:

S.No.	Date	Invoice No.	Amount (in Rs.)
1.	01.03.2016	6282	5,932.00
2.	12.03.2016	6287	50,505.00
3.	23.03.2016	6293	19,400.00
4.	04.04.2016	6296	51,085.00
5.	04.04.2016	6297	30,255.00
6.	02.05.2016	6301	54,808.00
7.	02.05.2016	6302	55,523.00
8.	04.05.2016	6304	16,995.00
9.	12.05.2016	6307	37,813.00
10.	18.05.2016	6309	19,400.00
11.	01.06.2016	6315	56,113.00
12.	08.06.2016	6318	60,563.00
13.	14.06.2016	6319	72,375.00
14.	21.06.2016	6321	13,480.00
15.	01.07.2016	6324	79,655.00
16.	06.07.2016	6325	13,480.00
17.	23.07.2016	6332	19,400.00
18.	01.08.2016	6334	64,285.00
19.	02.08.2016	6335	26,538.00
20.	03.09.2016	6340	25,543.00
21.	01.10.2016	6346	12,160.00
22.	03.10.2016	6347	39,493.00
23.	04.11.2016	6351	29,617.00
24.	17.11.2016	6353	22,695.00
25.	05.12.2016	6355	36,753.00
26.	14.12.2016	6357	45,105.00

27.	06.01.2017	6362	27,113.00
28.	01.02.2017	6363	29,675.00
29.	03.02.2017	6364	12,113.00
30.	14.02.2017	6365	1,260.00

4. Totally, 30 invoices raised by the Petitioner towards the amount due and payable by the Corporate Debtor. Out of that, 10 invoices are within three years period of limitation. In item No.21 to 30 as referred above, the total amount of invoices are above one lakh rupees at the time of filing of this application, this Adjudicating Authority had jurisdiction to hear petition for default above one lakh. Hence, this application is maintainable. The Petitioner states that the Corporate Debtor confirmed balance of debt on 01.09.2018 thereby acknowledging Rs.12,04,132/- as due and payable.

5. Taking into consideration the facts mentioned supra, the Application **IBA/83/2020** stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date.

6. Since the Operational Creditor has not named the Insolvency Resolution Professional, this Adjudicating Authority, based on the list furnished by Insolvency and Bankruptcy Board of India (IBBI), appoints Mr. M. Murugesan, Regn. No. IBBI/IPA-002/IP-

N00527/2017-2018/11679 as Interim Resolution Professional, subject to the condition that no disciplinary proceedings are pending against such an Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order.

7. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- (a) The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.*

8. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

- (i) *The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*
- (ii) *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.*

9. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

- (i) *The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:*
- (ii) *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 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.*

10. The Operational Creditor shall deposit a sum of Rs.1,00,000/- with the IRP for initial expenses. The amount shall be adjusted by CoC after constitution of the same, as required under the provisions



of the Code to meet out the expenses to perform the functions assigned to IRP in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

11. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records.

12. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

KNP