

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

TP/MP/ 174 of 2019 [CP(IB) 426 of 2018]

**Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 23.07.2020**

Name of the Company:

Rashnidhi Kumar & Bros
V/s
S T L Exports Ltd

Section:

9 of the Insolvency and Bankruptcy Code

ORDER

Learned Counsel Mr. Pavan Godiawala appeared for the Operational Creditor.

Learned Counsel for the Operational Creditor filed speaking to minutes to replace the name of IRP in order dated 07.07.2020 passed by this Bench

Learned Counsel for the Operational Creditor submitted that in Form No. 2 at page no. 13-14 of the Petition the name of the proposed IRP was already mentioned. Perused the record, hence, we allow the speaking to minutes and the name of IRP be corrected vide order dated 07.07.2020 as under :

**IP- Mr. Amar Vijaykumar Agrawal
Registration No. IBBI/IPA-001/IP-P00086/2017-18/10182**

The order dated 07.07.2020 stands corrected accordingly and corrected copy be uploaded.

The Speaking to minutes stands disposed of.


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**

Dated this the 23rd day of July, 2020.

vc


**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD**

TP No. 174 of 2019 [CP (IB) No.426/9/NCLT/AHM/2018]

(Application for initiating Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016 r.w. Rule 6 of the Insolvency & Bankruptcy Code, 2016 (Application to Adjudicating Authority Rules, 2016))

In the matter of :

Rasnidhi Kumar & Bros

Proprietorship Concern

Proprietor-Ravindra Kumar Gupta

34, Ware House Road,

Vinobapath, Indore-452007

Madhya Pradesh

...Operational Creditor

Versus

STL Exports Ltd.,

CIN: L27106MP1993L00801

Taraganj Industrial Area,

A.B. Road,

Sarangpur, Rajgarh,

Madhya Pradesh

..Corporate Debtor

Date of Pronouncement of Order 7th July, 2020

Coram: HON'BLE MR. MADAN B. GOSAVI, MEMBER(J)

HON'BLE MR. VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

Learned Counsel Mr. Pavan Godiawala for the Operational Creditor.

No one appeared for the Corporate Debtor.

ORDER

[Per: HON'BLE MR. VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This Application is filed under **Section 9** of the Insolvency & Bankruptcy Code, 2016 by the Operational Creditor, **Rasnidhi Kumar & Bros.** to initiate Corporate Insolvency Resolution Process against Corporate Debtor **STL Exports Ltd.** The outstanding principal sum has been stated of **Rs.5,92,66,610/-** (Rupees Five Crore Ninety Two lacs Sixty Six Thousand Six Hundred and Ten Only).
2. The brief facts of the case are as under :
 - 1) The Operational Creditor made supply of various debts as per arrangement between the parties. The Operational Creditor raised 89 Invoices for supply made between January 2016 to March 2016. The balance confirmation letter as on 31.03.2017 was signed by the Corporate Debtor acknowledging its debt /liability of the impugned sum.
 - 2) Learned Counsel for the Operational Creditor appeared and narrated these basic facts. He submitted that an Affidavit-in-Reply by the Corporate Debtor had taken on only one ground that



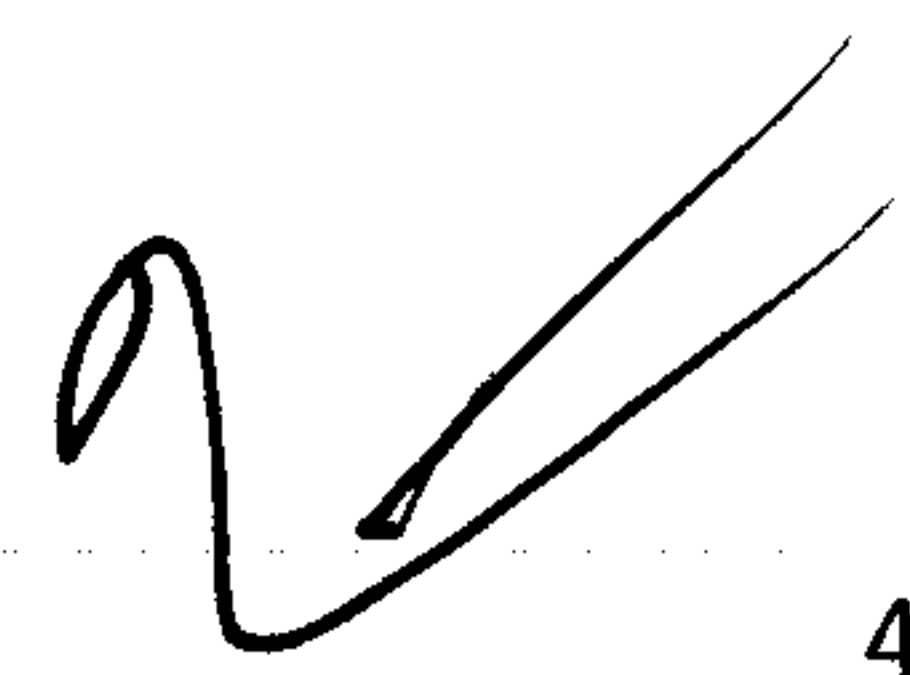
last transaction was made on 18.03.2016 and limitation was expired on 18.03.2019, hence, this application was barred by limitation, whereas, the fact was that the Application has been filed in July 2018, hence, this claim of the Corporate Debtor was factually incorrect. The Learned Counsel for the Operational Creditor submitted that even otherwise due to acknowledgment of debt as on 31.03.2017, the Application well within limitation period.

- 3) We have considered the submissions made by Learned Counsel for the Operational Creditor and material available on record. The Application filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 is complete in all respects. The Notice under Section 8 has been duly served. Affidavit/documents as required under Section 9(3) (b) and 9 (3) (c) are on record.
- 4) The name of IRP is not required to be proposed mandatorily, hence, we will appoint (Resolution Professional) from the list provided by the IBBI as IRP.

- 5) Now, we analyse factual position. Admittedly, there is an outstanding debt which is due and payable both in-fact and in-law. The default has occurred in payment thereof. There is no pre-existing dispute defined as under Section 5(6) of the Insolvency & Bankruptcy Code, 2016. Thus, basic condition of Section 9 r.w. Section 8 stand fulfilled. Accordingly, this Petition is admitted and we order as under :

ORDER

1. The Operational Creditor has not proposed the name of the Interim Resolution Professional(IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Amar Vijaykumar Agrawal, IBBI/IPA-001/IP-P00086/2017-2018/10182** to act as an IRP under Section 13(1) (c) of the Code.
2. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
 - (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;*
- (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.*

3. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

4. This Adjudicating Authority direct the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of

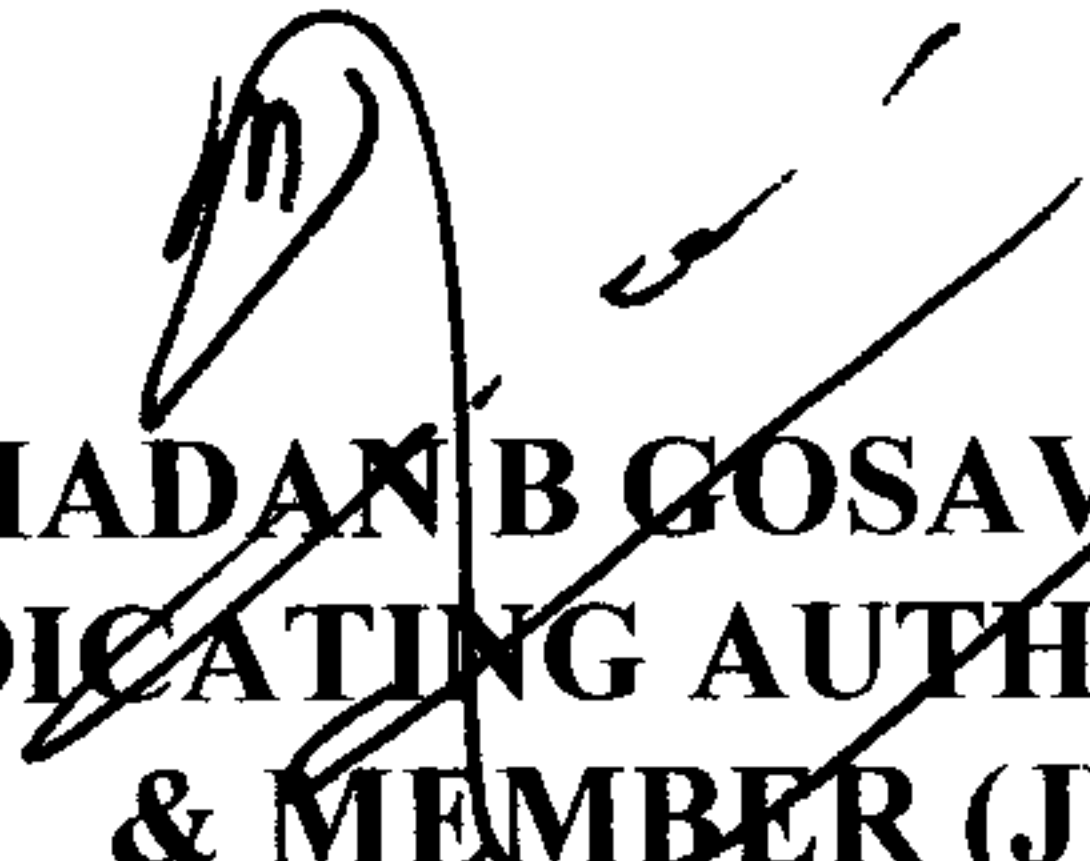
claims under Section 15 as required by Section 13(1) (b) of the Code.

5. The order of moratorium shall have effect from the date of receipt of authenticated copy of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. **The Operational Creditor is directed to pay an advance of Rs. 2,00,000/- (Rupees Two Lacs Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth**

conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.
9. Accordingly, **CP(IB) No. 426/9/NCLT/AHM/2018 is allowed.**
10. The matter to be listed on 28.08.2020 for further consideration.


(VIRENDRA KUMAR GUPTA)
ADJUDICATING AUTHORITY
& MEMBER (T)


(MADAN B GOSAVI)
ADJUDICATING AUTHORITY
& MEMBER (J)

Signed on this, the 7th July, 2020.

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