



GOVERNMENT OF INDIA/ भारत सरकार
NATIONAL COMPANY LAW TRIBUNAL/ राष्ट्रीय कंपनी विधि अधिकरण
AHMEDABAD BENCH/अहमदाबाद बेंच

1st and 2nd Floor, Corporate Bhawan/ पहली और दूसरी मंजिल, कॉर्पोरेट भवन,
Beside Zydus Hospital, Off S.G. Highway / ज़ाइडस अस्पताल के पास, ऑफ एस जी हाईवे,
Thaltej, Ahmedabad-380 059 / थलतेज, अहमदाबाद- ३८० ०५९.

Ref: NCLT/AHM/ CP (IB) No. 171 of 2019/ 192 /2020.

To,

1. M/s. NPAT Furniture Private Limited	Plot No. 263, Jinmangal Co-operative Housing Society Limited, Vibhag-2, Simandhar Tower-A/704, Ahmedabad-380054
1.1 M/s. NPAT Furniture Private Limited	228/1/1, Dantali Industrial Area, Nr. Deepkiran Food Factory, Ognaj-Vadsar Road, Dantali, Gandhinagar-382721
2. Mr. Kaushik Jayantilal Shah Interim Resolution Professional	305, Hrishikesh II, Nr. Navrangpura Bus Stop, Opp. Municipal School, Navrangpura, Ahmedabad-380009
3. The Registrar of Companies	ROC Bhavan, Nr. Ankur Bus Stand, Opp. Rupal Park Society, Naranpura, Ahmedabad- 380 013

Sub: Certified True Copy of order dated 18.12.2019 passed in CP (IB) No. 171 of 2019.

With reference to the subject cited above, please find enclosed herewith copy of the order dated 18th day of December, 2019 passed by this Tribunal in CP (IB) No. 171 of 2019, being The Corporate Debtor, Interim Resolution Professional and Registrar of Companies for information, records and action if any at your end.

Date:08.01.2020


Deputy Registrar

09/01/20

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

CP(IB) 171/9/NCLT/AHM/2019

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)


ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON :18.12.2019

Name of the Company: MS Enterprise

V/s.

NPAT Furniture Pvt Ltd

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

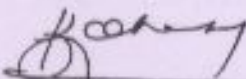
S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	JAIMIN R. DAVE	ADVOCATE	PETITIONER	
2.				

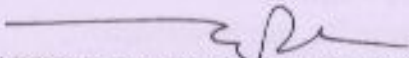
ORDER

None for the Parties.

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.


(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)


(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 18th day of December, 2019.



**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B.) No. 171/9/NCLT/AHM/2019

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)
Hon'ble Mr. Prasanta Kumar Mohanty, Member (Technical)**

In the matter of:

M/s. M. S. Enterprise,
63, Silver Industrial Estate-2,
Opp. HOF, Nr. Nova Petrochemicals,
Moraiya, Changodar,
Ahmedabad - 382213.
Through its proprietor,
Mr. Ram Murlidhar Verliani

.....Petitioner/Operational Creditor

Versus

M/s. NPAT Furniture Private Limited
Plot No. 263, Jinmangal Co-operative Housing Society Limited,
Vibhag-2, Simandhar Tower - A/704,
Ahmedabad , Gujarat - 380054,
Having its factory at:
228/1/1, Dantali Industrial Area,
Nr. Deepkiran Food Factory,
Ognaj-Vadsar Road, Dantali, Gandhinagar,
Gujarat-382721.

.....Respondent/ Corporate Debtor

Appearance:

Mr. Jaimin R. Dave along with Mr. Priyank S. Dave, Advocates for
the Petitioner.

None for the Respondent.



Order delivered on 18th December, 2019.

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ORDER

[Per: Shri Harihar Prakash Chaturvedi, Member (Judicial)]

1. The present I.B. Petition is preferred by M/s. M. S. Enterprise being an Operational-Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy Rules, 2016 (herein after referred to as a "Code") seeking for initiation of Corporate Insolvency Resolution Process ("CIRP" in Short) in respect of the Corporate-Debtor-Company namely, M/s. NPAT Furniture Pvt. Ltd. It is stated that the Operational Creditor, M/s. M. S. Enterprise is a proprietorship firm of Mr. Ram Murlidhar Verliani as a Proprietor. The Operational Creditor Company is said to be involved in the business of importing and supplying of various wood coatings and its solutions. The Operational Creditor is having its registered address at: 63, Silver Industrial Estate-2, Opp. HOF, Nr. Nova Petrochemicals, Moraiya, Changodar, Ahmedabad - 382213, Gujarat.
2. It is stated that the Respondent/Corporate Debtor Company, namely M/s. NPAT Furniture Private Limited was incorporated on 25.06.2012 with the CIN: U20212GJ2012PCT070901 and is engaged in the business of manufacturing different products of wood, cork, straw and plaiting materials.



3. The Petitioner/Operational-Creditor has approached this Tribunal for following prayers as mentioned in the petition:

- "(i) Admit the Insolvency Application and to initiate Corporate Insolvency Resolution Process against NPAT Furniture Private Limited having corporate identification number: U20212GJ2012PCT070901;***
- (ii) Appoint an interim resolution professional and declare moratorium against NPAT Furniture Private Limited having corporate identification number U20212GJ2012PCT070901 in accordance with Sub-section (1) of Section 13 read with Section 14 of the Insolvency and Bankruptcy Code, 2016;***
- (iii) Cause public announcement of the initiation of corporate insolvency process and call for the submission of claims in accordance with Clause (b) of Sub-section (1) of Section 13 and declare moratorium according to Section 14 of the Insolvency and Bankruptcy Code, 2016."***

4. It is informed that the Corporate-Debtor-Company is having authorised share capital of Rs.15,00,000/- (Rupees Fifteen Lakhs only) and the paid-up share capital of the company is Rs.15,00,000/- (Rupees Fifteen Lakhs only). The registered office of the Corporate Debtor Company is situated at: Plot No. 263, Jinmangal Co-operative Housing Society Limited, Vibhag-2, Simandhar Tower - A/704, Ahmedabad , Gujarat, India - 380054.



5. It is submitted that the Respondent/Corporate-Debtor Company, i.e. M/s. NPAT Furniture Private Limited made an approach to the Petitioner/Operational-Creditor, i.e. M/s. M. S. Enterprise for purchasing of/want of some materials, viz. PU Thinner, PU Sealers with hardener, Polyester with cobalt & catalyst and other related wood coating solutions, between the period of October 2016 to November 2017 and accordingly, the Respondent Company had carried out transactions of a considerable amount with the Petitioner company.

6. As per the requirements of the Respondent Company, the Petitioner supplied the requisite materials at the site of the Respondent Company on its request and for each of the said supply the Petitioner/Operational-Creditor has generated appropriate invoices from time to time.

7. It is submitted that the Respondent /Corporate-Debtor had never raised any dispute either with respect to the quality of goods supplied by the Petitioner which is evident from the duly signed copies of the invoices by the Respondent Company. The Petitioner has annexed copies of all invoices as Annexure B.



8. As submitted, the Respondent against the said generated invoice, used to make payment on ad-hoc basis. It is submitted that the last payment was made by the Respondent Company on 02.05.2018 for Rs.50,000/- (Kotak Mahindra Bank, Page no.71 of the Paper book), which is evident from the account of the petitioner.
9. It is submitted that the total supply of goods amounting to Rs.9,34,694/- (Rupees Nine Lakhs Thirty-Five Thousand Six Hundred and Ninety-Four only) remains outstanding after the payments made by the Corporate Debtor Company. The Petitioner also claimed interest amount so as mentioned in the respective invoices on account of delay of payment. Thus, a total interest amount of Rs.3,02,352/- (Rupees Three Lakhs Two Thousand Three Hundred Fifty-Two only) has been claimed by the Petitioner for the delayed payments of each invoices as on 15.01.2019. The total interest computation has also been annexed by the Petitioner along with the present petition (page no. 71 to 74 of the paper book). Thus, total claimed amount of the Petitioner comes to the tune of Rs.12,38,046/- (Rupees Twelve Lakhs Thirty-Eight Thousand and Forty-Six only) which has been claimed by the Petitioner to the Respondent/Corporate-Debtor-Company.



10. It is submitted that the Petitioner/Operational-Creditor, through E-mails and letters had sent reminders to release the aforementioned claimed amount/dues but the Respondent did not respond or made any payment towards the said outstanding payment/amount.
11. Therefore, it is submitted that the Petitioner was compelled to issue a Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy Regulations, 2016 to the Respondent Company for making an aggregate outstanding amount of Rs.12,18,801/- (Rupees Twelve Lakh Eighteen Thousand Eight Hundred and One only) from the date of receipt of demand notice and/or realization, within 10 (ten) days of the receipt of the notice. The Petitioner has annexed the copy of demand notice to the present petition as Annexure 'E'.
12. As submitted, the Demand Notice was duly served and the Petitioner has annexed proof of despatch of the same in Annexure 'E'.
13. In the present matter, there is no reply received from the Corporate Debtor. The present matter initially was listed on 06.03.2019, 24.04.2019, 10.07.2019 and on 27.08.2019.



The Petitioner, M/s. M. S. Enterprise, in compliance of this Bench's order dated 24.04.2019 and 27.08.2019 has produced proof of dispatch of serving an order to the Respondent.

14. During the course of hearing, this Tribunal had raised a query regarding a registration certificate of the petitioner and directed to produce a certificate issued by a Financial Institution stating that there has been no credit entry in the account of the Petitioner from the Respondent herein. It was directed to produce the same in compliance of the order dated 10.07.2019 and had granted a seven days of time. The same had been submitted by the Petitioner on 17.07.2019.

15. It is evident in the present matter that the Corporate-Debtor did not deny its loan liability for the said total amount of **Rs.12,18,801/- nor even denied its liability towards payment of invoices (of principle amount) to the tune of Rs.9,34,694/- which is more than one lakh rupees.** Thus, the debt-due is admitted and its default is duly established. Further, the present I.B. Petition is filed by an authorised signatory of the Operational-Creditor. Hence, it is found to be filed within limitation and such filing seems to be in order.



16. By considering the above given facts of the present case, the present IB petition filed under Section 9 of the code is found complete for the purpose of initiation of Corporate-Interim- Resolution-Process in respect of Corporate-Debtor-Company. Hence, deserve~~d~~ for admission.

17. Therefore, the present IB petition is admitted with following observations/ Directions:

18. As per the provisions of Section 13 and 14 of the I.B. Code on the date of commencement of insolvency, this adjudicating authority declares moratorium for prohibiting all of the following, namely: -

- I.(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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.*



- II. *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- III. *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.*
- IV. *The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.*

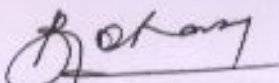
19. The Petitioner/Corporate-Debtor has not suggested any name of Insolvency Professional, and the same to be appointed by this Tribunal.

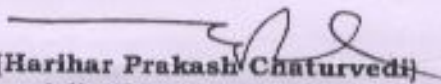
20. Hence, this Adjudicating Authority hereby appoints **Mr. Kaushik Jayantilal Shah**, having Insolvency Professional Registration No. **IBBI/IPA-002/IP-N00143/2017-18/10379**, Email ID: **kjshahco@yahoo.com**, mobile no. **9426016200**, as an **Interim-Resolution-Professional**.

The Interim-Resolution-Professional is further directed to make public announcement of moratorium in respect of Corporate-Debtor-Company soon after receipt of an authenticated copy of this order and to act further as per the order/direction issued by this Adjudicating-Authority and to follow the provisions Section 13 and 14 and relevant provisions of the Insolvency and Bankruptcy Code.

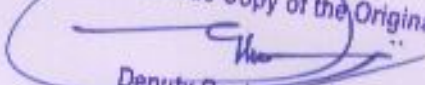


21. An authentic copy of this order to be communicated by the Petitioner as well as by this Registry to the Corporate-Debtor-Company, as well as to the Interim-Resolution-Professional and the Registrar of Companies at the earliest.
22. The present IB-Petition is disposed of accordingly.


(Prasanta Kumar Mohanty)
Adjudicating Authority
Member (Technical)


(Harihar Prakash Chaturvedi)
Adjudicating Authority
Member (Judicial)



Certified to be True Copy of the Original

Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad