

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303
CP(IB)/32(AHM)2023

Order under Section 9 IBC

IN THE MATTER OF:

Yogesh Hariprasad Barot Sole Proprietor of Yogi Impex
V/s
Creative Merchants Ltd

.....**Applicant**

.....**Respondent**

Order delivered on: 22/03/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-2**

C.P. (IB) No. 32 of 2023

In the matter of:

Yogesh Hariprasad Barot Sole Proprietor of Yogi Impex

GST No. 24AAUPB1970C3ZX

2nd Floor, Gujarat Chamber's Building,

Ashram Road, Ahmedabad, Gujarat – 380009

.....Applicant/Operational Creditor

VERSUS

Creative Merchants Ltd.

CIN: L51101GJ1984PLC102027

B-304, Silver Gardeniya, Near Manan Auto,

Vill- Gota(GSEB),

Ahmedabad, Gujarat- 382481

.....Respondent/ Corporate Debtor

Order pronounced on: 22.03.2024

Coram: Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

Appearance:

For the Applicant : Mr. Dheeraj Garg, Adv.

For the Respondent : Ms. Hirva Dave, Adv. a.w Mr. Jaimin R. Dave,
Adv.

JUDGMENT

1. This application is filed by the applicant to initiate Corporate Insolvency Resolution Process against Creative Merchant Limited. According to applicant the principle of debt is Rs. 1,01,22,902/- while interest is Rs.1,20,26,007/- till 30.07.2022, thus, total debt becomes Rs. 2,21,48,909/-. This debt is in respect of sale of goods to the Corporate Debtor. The default was occurred on 26.12.2015, the applicant issued demand notice on 01.08.2022 along with other documents applicant filed NeSL certificate. In the reply the respondent contended that they have purchased goods worth Rs.1,01,22,902/- from the applicant through bills dated 28.08.2015. They have acknowledged the debt and submitted that as they are not carrying on any business since last 4 years, it is in financial crunch and prayed for passing suitable orders.
2. NeSL certificate was produced on 29.11.2023.
3. Heard both the Ld. Counsels.
4. On perusing the NeSL certificate, it appears that the default amount is mentioned as Rs. 22,14,89,909/- and date of default is mentioned as 01.09.2020. However, in the application the date of default is mentioned as 26.12.2015.

5. The applicant has not given any reason as to why the notice was issued in the year 2022 for the default occurred in the year 2015. He has also not made any explanation as to how the date of default is changed from 26.12.2015 to 01.09.2020. The respondent also stated its company is not functioning since last 4 years. Still the applicant has not initiated any action for recovery of amount. From the pleadings of both the parties, it appears that this is a collusive petition. As application is filed much beyond limitation period it is barred by limitation.
6. Hence we pass the following order:

ORDER

Company Petition, i.e. C.P.(IB) No. 32 of 2023 is rejected.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)