

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

RST. A No. 1/2021
in
C.P. (IB) No. 40/ALD/2019

In the matter of:

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Magpet Polymer Private Limited

Magnum Park View, 36 A,
Pratapaditya Road, Kolkata-700026

.....Operational Creditor/Applicant

Versus

Hansraj Agrofresh Private Limited

C-23, 2nd Floor, Swastik Gardenia
Shivpur Varanasi-221003, Uttar Pradesh

.....Corporate Debtor/Respondent

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri Virendra Kumar Gupta : Member (Technical)

Appearances (through video conference):

For Applicant : Mr. Abhinav Gaur, Advocate
Mr. Shwetaank Nigam, Advocate
For Respondent : Mr. Dewarshi Kr. Rai, Advocate

Date of hearing: 23.11.2021
Date of pronouncement: 29.11.2021

ORDER

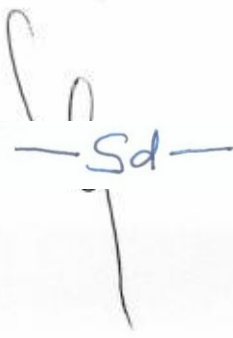
Per: Virendra Kumar Gupta, Member (Technical)

1. Through this application the Operational Creditor namely "***Magpet Polymers Private Limited***" is seeking initiation of Insolvency Proceedings against the Corporate Debtor namely "***Hansraj Agrofresh Private Limited***" on the ground

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that the settlement agreement entered dated 08th February, 2020 into by the parties after admission of Corporate Debtor into CIRP on 6th February, 2020 has been breached and such settlement agreement contained a clause for revival of main CP in that situation the main CP can be revived/restored as per the provision contained in such settlement agreement to this effect.

2. The facts, in brief are that after admission of Corporate Debtor into CIRP as mentioned hereinabove, the promoter of the Corporate Debtor entered into an agreement with the Operational Creditor to pay outstanding sum of ₹54,74,000/- in specified time schedule. Based upon such agreement, the application under Section 12A was filed and this Authority *vide* order 27.02.2020 set aside the admission order of Corporate Debtor into CIRP.
3. Subsequently, after one payment the cheques given by the Corporate Debtor were dishonoured and remained uncashed. The Applicant made efforts to get the settlement agreement implemented, however, out of the total sum of ₹54,74,000/-, ₹44,74,000/- still remains outstanding.
4. A copy of the settlement agreement has also been enclosed and reliance has been placed on clause 6 of the said settlement agreement which provide for revival/ restoration of proceedings which were initiated through CP (IB) No.40/ALD/ 2019.


—Sd—

5. Heard both sides and perused the records. It is noted that the settlement agreement dated 08.02.2020 has not been fully executed as there still remains outstanding sum of ₹44,74,000/-. Clause 6 of the agreement also provides that in case settlement agreement is not honoured, the said proceedings which were set aside earlier could be revived and restored on an application being made by the Operational Creditor. This factual position remains undisputed.
6. In the result, the aforesaid application stands allowed and disposed of in terms indicated above.
7. The original application CP NO. (IB) 40/ALD/2019 is thus restored its original stage and be listed for hearing on 12th January, 2022.

—Sd—

Virendra Kumar Gupta
Member (Technical)

—Sd—

Rajasekhar V.K.
Member (Judicial)

Md. Zaid
(Stenographer)