

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
CHENNAI BENCH – II, CHENNAI**

IBA/1309/2019

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w
Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)*

In the matter of M/s. SRI PARANTHAMAN TEXTILES PVT. LTD.

M/s. RamRaghav Spintex Private Limited,
Mittal Commercial Premises Co-operative Society Ltd.,
No.409, 4th Floor, C-Wing, CTS No.1629,
Village Marcol, Off: Mathura Das VasANJI Road,
Near Mittal Estate, Andheri (E),
Mumbai-400 049

... Applicant / Operational Creditor

-Vs-

M/s. Sri Paranthaman Textiles Private Limited,
Old No. 85, New No. 91,
Manoharan Street, South West Boag Road,
T. Nagar, Chennai-600 017

... Respondent / Corporate Debtor

and

**IA(IBC)1473(CHE)/2022
in
IBA/1309/2019**

M/s. RamRaghav Spintex Private Limited,
Mittal Commercial Premises Co-operative Society Ltd.,
No.409, 4th Floor, C-Wing, CTS No.1629,
Village Marcol, Off: Mathura Das VasANJI Road,
Near Mittal Estate, Andheri (E),
Mumbai-400 049.

... Applicant

-Vs-

M/s. Sri Paranthaman Textiles Private Limited,
Old No. 85, New No. 91,
Manoharan Street, South West Boag Road,
T. Nagar, Chennai-600 017

... Respondent

Order Pronounced on 13th February 2023



CORAM:

**DR. DEEPTI MUKESH, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Operational Creditor: Mr. Alladi Rahul, Advocate
For Corporate Debtor: Ex-parte*

ORDER

This is an application filed by the Operational Creditor/Applicant ("**RamRaghav Spintex Private Limited**") through Mr. Ram Manohar Kanodia, Director/Authorized Representative duly authorized vide Board Resolution dated 05.08.2019, under Section 9 of the IBC, 2016 seeking the commencement of the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor/Respondent Company ("**Sri Paranthaman Textiles Private Limited**")

2. The Operational Creditor is a private limited company which was incorporated under the Companies Act, 2013 having its registered office at Mittal Commerce Premises Co-Op Soc Ltd., No.1629, village Marol, Off Mathura Das VasANJI Road, Near Mittal Estate, Andheri (E), Mumbai 400 059.

3. The Corporate Debtor is a Company having its Registered Office at Old No. 85, New No.91, Manoharan Street, South West Boag Road, T.Nagar, Chennai-600017, having CIN: U18101TN2000PTC045864. The Company was incorporated on 05.10.2000.

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4. On perusal, Part-IV of the application reveals that the amount claimed in default is Rs.22,03,959/- (Rupees Twenty-Two Lakhs Three Thousand Nine Hundred and Fifty-Nine only). The Applicant/Operational Creditor is engaged in the business of supplying Polyester Staple Fibre among allied goods. The Corporate Debtor had approached the Operational Creditor for the supply of the said Polyester Staple Fibre in the year 2016.

5. Based on the assurances and representations of the Corporate Debtor, the Operational Creditor had supplied Polyester Staple Fibre to the Corporate Debtor and various invoices were raised. The Operational Creditor further states that the Corporate Debtor was required to make payments against the said invoices within a period of 4 days from the date of issue of the invoices as per the terms and conditions stipulated in the invoice. The Operational Creditor further states that they had maintained a running and continuous account with the Corporate Debtor.

6. Invoices were raised by the Operational Creditor between the period 21.10.2016 to 18.12.2017. The Corporate Debtor had defaulted in making payments to the Operational Creditor and hence an outstanding operational debt had accrued. A Demand Notice dated 04.06.2017 was issued to the Corporate Debtor. After issuing of the Demand Notice, a sum of Rs.50,000/- was paid by the Corporate Debtor on 30.07.2019.




7. Another notice dated 03.09.2019 was issued by the Operational Creditor to the Corporate Debtor on two different addresses of the Corporate Debtor i.e. Registered Office and Factory which was served on 05.09.2019 and 06.09.2019. Proof of service at the registered office of the Corporate Debtor, as per Master Data in the website of the Ministry of Corporate Affairs is placed on record.

8. However, the Corporate Debtor has not replied to the statutory demand notice. An Affidavit under Section 9(3)(B) of the Code is attached along with the application at **Page No.168**. The date of default as per the application is 23.12.2017. The Applicant has attached the following documents at **Page No.10** along with the application:

1. *Ledger statement for the year ending 2016-17, 2017-18 and 2018-19, Annexure II (E);*
2. *Unpaid and partly paid Invoice from 21.10.2016 to 18.12.2017 with their respective original invoices and the proof of consignment Annexure II (F)*
3. *C-Forms for the relevant period Annexure II (G)*

9. This application has been signed by one Mr. Ram Manohar Bagirath Kanodia who is the director of the Operational Creditor.

The order dated 19.07.2022 records as under:



"Vide order dated 30.03.2022, the Respondent was directed to file counter. When the matter was taken up on 06.06.2022, the Respondent was instructed to file counter.

It is observed from the file that no counter has been filed. Hence, the opportunity to the Respondent to file counter is closed.

The Counsel for the Applicant is directed to file Written Submissions **within seven days from now.**"



10. Further to this, the Corporate Debtor was set *ex-parte* vide order of this Tribunal dated 18.10.2022. The present application (IBA/1309/2021) was filed on 23.09.2019 and at that point of time, the pecuniary jurisdiction of this Tribunal was more than Rs. One Lakh.

11. **IA(IBC)/1473(CHE)2022** has been filed seeking to take on record certain additional documents. The reliefs are as follows:

a) *Permit the Applicant to let in Documents in S.No.1 to 13 mentioned above as additional documents, forming part of the record of the case; and*

b) *Pass such further or other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.*

Accordingly, IA(IBC)/1473(CHE)2022 is hereby **allowed** and additional documents submitted before this Tribunal under S.R.No.1967 dated 05.12.2022 are taken on record.



12. Various e-mail communications dated 13.11.2022 are taken on record. Heard the Counsel for the Applicant. In Page No.34



of the application, there is an e-mail communication dated 28.12.2017 from the Corporate Debtor regarding pending interest up to Nov-2017, the details of the same are extracted as below:

"Kindly arrange to send details of interest up to Nov-2017 we will arrange for payment by next week."

13. It is seen that the Corporate Debtor has acknowledged the dues of the Applicant. In any case, the principal dues of the Operational Creditor are more than Rs.1 (One) Lakh which is pecuniary limited at that point of time when the application was filed, we are constrained to order for commencement of the Corporate Insolvency Resolution Process against the Corporate Debtor, as the Corporate Debtor has not disputed or contested the submissions of the Applicant amounting to deemed admission.

14. Since the Operational Creditor has not named the Insolvency Resolution Professional, this Tribunal based on the latest list furnished by the Insolvency and Bankruptcy Board of India applicable for the period between January 2023- June 2023 hereby appoints **Mr.Ramaswamy.M with Registration Number [IBBI/IPA-001/IP-P01432/2018-2019/12238] E-mail ID:- ramsattirupur@gmail.com as the "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. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Sections 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

15. 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 the 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

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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.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

16. However, during the pendency of the moratorium period terms of Section 14(2) (2A) and 14(3) shall apply as extracted hereunder:

(2) 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.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the



operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
- (a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
 - (b) a surety in a contract of guarantee to a corporate debtor.

17. 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:

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

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 the 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.



18. The Operational Creditor is directed to pay a sum of **Rs.1,00,000/-** (*Rupees One Lakh Only*) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

19. Based on the above terms, IBA/1309/2019 stands **Admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come into effect as of this date. 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. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI is also furnished with a copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

— Sd

SAMEER KAKAR

MEMBER (TECHNICAL)

— Sd —

DR. DEEPTI MUKESH

MEMBER (JUDICIAL)

V. Suguna