

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH**

**CP(IBC)/04/KOB/2024**

*(Under Section 9 of the IBC, 2016)*

***In the matter of M/s Plumbers Choice  
Plastics Private Limited***

**MEMO OF PARTIES:**

**M/S BANGUR EXIM PRIVATE LIMITED**

Having Registered office at No.31,  
Chowringhee Road,  
Kolkata- 700016

**... Petitioner/ Operational Creditor**

Versus

**M/S PLUMBERS CHOICE PLASTICS  
PRIVATE LIMITED**

VI/410(1), Temple Road,  
Park Avenue, Aluva,  
Ernakulam- 683101, Kerala

**... Respondent/Corporate Debtor**

**Order delivered on: 04.04.2024**

***Coram:***

**Hon'ble Member (Technical)**

**Shri. Shyam Babu Gautam**

**Hon'ble Member (Judicial)**

**TMT. (Retd.) Justice T Krishna Valli**

***Appearances:***

For the Petitioner : Mr. Akhil Suresh, Advocate

For the Respondent : Mr. Job Abraham, Advocate

## **ORDER**

### **Per Coram**

1. This application has been filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as 'Code') by M/s Bangur Exim Private Limited (CIN: U52190WB2011PTC160317) (hereinafter referred to as the 'Operational Creditor') for initiation of Corporate Insolvency Resolution Process against **M/s Plumbers Choice Plastics Private Limited**, the Corporate Debtor, for alleged default in repayment of Operational Debt of ₹ 2,02,87,813/- (Rupees Two Crore Two Lakh Eighty-Seven Thousand Eight Hundred Thirteen only), due and payable to the Operational Creditor by the Corporate Debtor.
2. The Operational Creditor is a private limited company based out of Kolkata and is engaged in the business of supplying Polyvinyl Chloride ('PVC') resins, among other products. The Corporate Debtor is a private limited company registered in Kerala and is engaged in the manufacturing and sale of plumbing hardware products such as PVC pipes, water tanks etc.
3. Since March 2019, the Operational Creditor has sold and delivered several consignments of PVC resin to the Corporate Debtor. In terms of the agreed terms and conditions between the parties, the Corporate Debtor was to pay to the Operational Creditor the value of the goods supplied to them within sixty days from the date of receipt of invoices/value bills interest as per specific rate per annum to the Operational Creditor in the event of any delay or default in making the payments as mentioned above.

4. From 25.09.2020 to 30.11.2020, the Operational Creditor sold and delivered several consignments of PVC resin to the Corporate Debtor. The invoices/value bills were raised thereon of Rs. 1,38,55,113/-, which were duly received and accepted by the Corporate Debtor, Certain part payments were made but an amount of Rs. 1,30,80,843/- remained outstanding and payable, as on 31.03.2021. Additionally, an amount of Rs. 50,80,099/- became due and payable to the Operational Creditor towards interest from the respective due dates of the said invoices/value bills till 31.12.2021.
5. The Operational Creditor had issued a notice on 09.02.2022 calling upon the Corporate Debtor to make the payment of Rs. 1,81,60,942/- (Rs. 1,30,80,843 + Rs. 50,80,099) and the said notice was duly received by the Corporate Debtor on 14.02.2022. The Corporate Debtor showing his bonafides had further issued a cheque bearing No. 828581 dated 14.03.2022 for an amount of Rs. 1,30,80,843/- in favour of the Operational Creditor and made an assurance that the remaining liabilities would also be settled immediately. But the said cheque was dishonoured upon presentation due to insufficiency of funds on 14.03.2022, the date of default. The Corporate Debtor and its Directors were served with notice under Section 138 of the Negotiable Instruments Act on 01.04.2022, but the Corporate Debtor had failed to make payment upon the receipt of the same. Despite repeated opportunities, the Operational Creditor had issued a demand notice dated 10.10.2022 against the Corporate Debtor under Section 8 of the Code. Additionally, as per the terms of supply and as provided on the respective invoices, an amount of Rs. 72,06,970/- had become due and payable to the Operational Creditor towards interest from the

respective due dates of the said invoices/value bills till 31.05.2023. Thus, an amount of Rs. 2,02,87,813/- (Rs. 1,30,80,843/- + 72,06,970/-) inclusive of interest calculated up to 31.05.2023 is the undisputed unpaid operational debt due to the Operational Creditor.

6. The date of default is 14.03.2022 as stated in Part III of the petition. It is stated that the petition is within the period of limitation. The Corporate Debtor has having registered office in Kerala and operational debt due to the Operational Creditor exceeds Rupees 1 Crore. The Operational Creditor has filed the following as evidence of debt: -

- a. Invoices raised by the Operational Creditor from 25.09.2020 to 30.11.2020*
- b. Copy of notice sent to the Corporate Debtor dated 09.02.2022*
- c. Copy of Cheque dated 14.03.2022*
- d. Copy of Cheque dishonour memo dated 15.03.2022*
- e. Demand Notice in Form 3 dated 10.10.2022*
- f. Demand Notice in Form 4 dated 10.09.2022*
- g. Record of default issued by NESL*
- h. Copy of financial statements for FY 2020-21, 2021-22, 2022-23*

7. The Corporate Debtor was set exparte on 27.02.2024 for non-appearance, but the same was set aside vide order dated 12.03.2024 in IA(IBC)/105/KOB/2024. Subsequently, the Respondent/Corporate Debtor filed a reply stating that the Operational Creditor had a running account with the Respondent but the transactions were on an independent basis without reference to any underlying agreements and supplies were made on an ad-hoc basis. The Respondent denied the liability to pay Rs. 1,30,80,834/- and thereof. But admitted the fact that

a cheque was issued of Rs. 1,30,80,834/- for additional purchase, but the Operational Creditor failed to make supplies. And stated that the presentation of the Cheque without the performance of the contractual obligations is illegal.

8. Heard the submissions and perused the entire records. The debt amounting to Rs. 2,02,87,813/- as on 31.05.2023 is beyond the threshold limit stipulated under the Code. This petition filed on 01.02.2024, comes well within the period of limitation. From the invoices produced by the Operational Creditor, it is evident that there exists a 'Debt' between the parties and the said debt qualifies to be an 'Operational Debt' as defined under 5(21) of the Code. The Respondent has neither challenged these invoices nor shown any evidence as to whether these invoices are paid or not.
9. It is also noted that a principal amount of Rs. 1,30,80,834/- was due to the Operational Creditor and Respondent admitting the fact of issuance of the cheque for the same Rs. 1,30,80,834/- but alleged to be for a different purpose. But other than the mere allegations raised the Respondent failed to corroborate the allegations in support of documentary evidence to prove the same.
10. Thus, we are of the view that there is an 'Operational Debt' which is due and payable to the Operational Creditor and there is a "Default" as defined under Section 3 (12) of the Code on the part of the Corporate Debtor. We find that this petition filed by the Operational Creditor for initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor is a fit case to be admitted under Section 9 of the Code.

11. Hence this Tribunal order for the Corporate Insolvency Resolution Process of M/s Plumbers Choice Plastics Private Limited, accordingly we hereby **admit** the petition and pass the following orders.

- a. The petition bearing CP(IBC)/04/KOB/2024, by M/s Bangur Exim Private Limited, the Operational Creditor, under section 9 of Code for initiating CIRP against **M/s Plumbers Choice Plastics Private Limited** (CIN: U25206KL1995PTC009408), the Corporate Debtor is ADMITTED.
- b. There will be a moratorium under section 14 of the Code.
- c. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the Code or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.
- d. Public announcement of the CIRP shall be made immediately as specified under section 13 of the code read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.
- e. The Operational Creditor has proposed the name of one Mr. G. Rajesh Kurup, IBBI Registration Number: IBBI/IPA-001/[P-P-02643/2022-2023/14084, email: [rajesh64kurup@gmail.com](mailto:rajesh64kurup@gmail.com), as Interim Resolution Professional (IRP) and written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the

proposed IRP which is appointed as the IRP to take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The designated IRP must take any additional actions in this regard that are mandated by the law, more specifically Sections 15, 17, and 18 of the Code. 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 the Code. The fee payable to IRP or as the case may be, the IRP shall comply with such Regulations, Circulars and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out its functions as contemplated by sections 15 and to 21 of the Code.

- f. During the CIRP period the management of the Corporate Debtor shall vest with the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow.
- g. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- h. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Three Lakhs Only) with the IRP to meet the expenses arising out

of issuing publication and inviting claims. These expenses are subject to approval by the COC.

- i. Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this order.
12. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.
13. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities

SHYAM BABU  
GAUTAM

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**SHYAM BABU GAUTAM**  
**(MEMBER TECHNICAL)**

T.KRISHNAVALLI

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**T KRISHNA VALLI**  
**(MEMBER JUDICIAL)**

Signed this the 4<sup>th</sup> day of April, 2024.

Krishna