

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH, CHENNAI**

CP/781/IB/2018 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. Intime Textile Limited*

M/s. Muniraj Colours Private Limited

... Operational Creditor

-Vs-

M/s. Intime Textile Limited

... Corporate Debtor

Order delivered on 16th of September, 2019

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

*For Operational Creditor : Mr. A.G.Sathyannarayana, Counsel
for M/s. A.K.Mylsamy & Associates LLP*

For Corporate Debtor : Ex-parte

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Adjudication is CP/781/IB/2018 that has been
filed by the Operational Creditor under Section 9 of the
Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code,
2016') r/w Rule 6 of the Insolvency & Bankruptcy



(Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. As seen from the record, on 10.10.2018, the Counsel for the Corporate Debtor has brought a Demand Draft dated 03.10.2108 for an amount of Rs.3 Lakhs drawn on South Indian Bank and sought time to file the Schedule for payments for the rest of the amount. Thereafter, at the request of the Counsel for the Corporate Debtor, the case has been adjourned from time to time. However, the Corporate Debtor neither filed the Schedule for payment nor appeared in person or through its Counsel. Hence, the Corporate Debtor was proceeded *ex-parte* on 28.06.2019.



3. Heard the Counsel for the Operational Creditor, and perused the record placed on file.

4. The Operational Creditor has claimed an amount of Rs. 40,14,320/-, i.e. Rs.22,72,355/- as principal amount and Rs.17,41,965/- as interest, calculated at the rate of 24% p.a. on the principal amount from the date of default till the date of filing.

5. The brief facts of the case are that as per the demands made by the Corporate Debtor, the Operational Creditor has supplied the printing chemicals to the Corporate Debtor on various dates from 26.09.2014 to 08.12.2014 for which the Operational Creditor raised the Invoices. The Invoices are placed at pages 140 to 157 of the typed set filed with the application. The payments for the supply of materials were to be made by the Corporate Debtor to the Operational Creditor within 60 days from the date of Invoice. It is stipulated in the Invoice that in case of delayed payment, the Corporate Debtor shall be liable to pay interest at the



rate of 24% per annum on the Invoice amount till the full and final payment is received from the Corporate Debtor.

6. On 16.07.2016, the Corporate Debtor has made part payment of Rs.13,537/- towards the outstanding amount claimed by the Operational Creditor. The Counsel for the Operational Creditor has submitted that the Corporate Debtor had issued several Post Dated Cheques towards the repayment of the balance amount, but the same were dishonoured.

7. The Operational Creditor has placed on record the computation of default in tabular form at page 13 of the typed set filed with the Application wherein the details of Invoices raised on various dates and the overall amount due as on the date of filing of the Application is mentioned.

8. The Counsel for the Operational Creditor has referred to the Letter dated 01.10.2015, wherein the Corporate Debtor has acknowledged that a sum of Rs.25,34,645/- is



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due and payable to the Operational Creditor, the copy of the Confirmation of Accounts from 01.04.2015 to 30.09.2015, issued by the Corporate Debtor is placed at page 168 of the typed set filed with the Application.

9. The Operational Creditor has sent Form-3 Demand Notice dated 21.03.2018 under Section 8 of I&B Code, 2016 wherein the particulars of Invoices and the amount of debt claimed is being mentioned. Copy of notice is placed at pages 8 to 12 of the typed set filed with the Application which has been delivered to the Corporate Debtor on 24.03.2018 to which no reply was given. Copy of the postal receipts of sending the notice and delivery report are placed at pages 163 and 164 of the typed set filed with the Application.

10. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016 by filing Affidavit, wherein under Para 4, it has been deposed that the Corporate Debtor has not issued any notice of dispute or



[Handwritten signature]

pendency of a suit or arbitration proceedings in relation to the unpaid operational debt. Copy of the Affidavit is placed at pages 169 to 171 typed set filed with the Application. The Bank Statement issued by the Axis Bank is placed at pages 15 to 139 of the typed set filed with the Application.

11. During the course of hearing, opportunities were given to the Corporate Debtor to pay the amount and settle the matter. However, the Corporate Debtor has paid only an amount of Rs.3 Lakhs on 10.10.2018 and thereafter, no payment was made.

12. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Authority is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, Application is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered, which



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ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

13. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, namely :-

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including 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 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.

14. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

15. Mr. Nithiyantham Ramachandran, is hereby appointed as IRP, as has been proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP as is stated in Form-2. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this



Order is received, and call for submissions of claim by the creditors in the manner as prescribed.

16. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the I&B Code, 2016.

17. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016. The address and other details of the IRP are as follows: -



✓ **Mr. Nithiyantham Ramachandran,**

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Mobile No: 98943 10914

18. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the concerned RoC.


19. Order is pronounced in open court.


(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

P.ATHISTAMANI



Certified to be True Copy


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Received on 20-09-2019.

Ramiyantham

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