

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IBA/150/2020 filed under Section 9 of
the Insolvency and Bankruptcy
Code, 2016 read with Rule 6 of the
Insolvency and Bankruptcy
(Application to Adjudicating
Authority) Rules, 2016.

In the matter of M/s. Vasan Dental Hospitals Private Limited

M/s. Creative Dental Laboratory
Rep. by its Proprietor Mr. Karthikeyan
16, Nehruji Street, Seeranaickenpalayam,
Coimbatore-641007

---Operational Creditor

V/s

M/s. Vasan Dental Hospitals Private Limited
(CIN: U85110TN2010PTC074635)
15A, 1st Cross Thillai Nagar Main Road,
Trichy-620018

---Corporate Debtor

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Petitioner/OC : *Shri. M.S. Viswanathan, Advocate*
Shri. Arvind Rajagopal, Advocate

For the Respondent/CD: *Shri. Sandeep Kumar Ambalavanan, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order pronounced on: 09.04.2021



Under Consideration is an Application filed by M/s. Creative Dental Laboratory, represented by its Proprietor Mr. Karthikeyan (in short, '**Petitioner/Operational Creditor**') against M/s. Vasan Dental Hospitals Private Limited (in short, '**Respondent/Corporate Debtor**') under section 9 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').

2. The Petitioner/Operational Creditor is a Proprietorship concern and obtained certificate of registration from Commercial Taxes Department, Government of Tamil Nadu for commencement of business from 01.07.2008, having its registered office at No.16, Nehruji Street, Seeranaickenpalayam, Coimbatore-641007.

3. The Learned Counsel for the Petitioner submitted that the Petitioner is engaged in the business of supplying dental accessories and other related products as per the requirement of the customers.

Between the period 01.04.2014 to 30.09.2016, the Petitioner supplied

Implant Cement Retainer, MLS, Full Metal Crown, Acrylic Denture,



Cercon, Ceramic-DSIGN-IVCR premium etc. worth Rs.58,33,351/- to the Respondent and raised invoices for the same (Page No.24 to 119 of the petition). It is further submitted that the Respondent made the payments to the Petitioner amounting to Rs.32,10,000/- during the period from 30.09.2016 to 17.07.2017 out of total claim of Rs.58,33,351/-. The Petitioner claims that as on 18.07.2017, an amount of Rs.26,23,351/- was still due from the Respondent. The last payment of Rs.25,000/- was made by the Respondent on 22.01.2018. Thereafter, inspite of repeated reminders, the Respondent failed to clear the outstanding debt.

4. It is further submitted that on 08.11.2019, the Petitioner issued demand notice under Section 8 of the IBC, 2016 as per Form-3 prescribed under Rule 5 in the Insolvency and Bankruptcy (application to adjudicating authority) rules, 2016 demanding unpaid operational debt of Rs.26,23,351 and that the Respondent failed to reply or pay the debt within 10 days. Copy of Bank Statement for the period from 01.04.2015 to 14.12.2019 (Page No.192A to 295) to show that the Petitioner has not received



payment of Rs.26,23,351/- from the Respondent is filed along with the petition.

5. Since the Respondent was given sufficient time for filing counter vide order dated 07.09.2020, 05.11.2020, 08.12.2020 and 12.01.2021, the right of Respondent to file counter was closed on 08.02.2021.

6. Upon hearing submissions of the counsel for the Petitioner and having perused the records, this Adjudicating Authority is of the view that the documents filed are not sufficient and debt has not been proved with adequate evidence. The Applicant has not filed any Purchase Order, Tax Invoices, and Delivery Challan to prove the "Operational Debt". The Applicant at Page No.24 & 25 of the application has filed typed outstanding details, reflecting the amount due to applicant and also outstanding's supplied to various branches of the Corporate Debtor. This is not invoice copy or delivery challan of the goods. Thereafter, we find continuous typed detail payment outstanding report prepared by applicant. The applicant has also enclosed a few e-mails regarding payment made



by Corporate Debtor. There is also exchange of mails, regarding adjustment of payments to other group concern. Hence, on overall perusal of documents, there is no absolute clarity of pending invoice and outstanding “debt”. Since the payments are also, as admitted by the applicant made on adhoc basis, it is not possible to arrive at the exact alleged amount due and payable, in summary way. This may require trial before Civil Court to decide on the “debt” and “default”.

7. Hence, for want of adequate documentary evidence, this Application IBA/150/2020 is hereby **dismissed**. No order as to costs.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

KNP