

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
SPECIAL BENCH
COURT - 1

ITEM No.4
CP(IB) 73 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Naveent B Kamani Proprietor of Vishnu Silk
V/s
P.G Silk Mills Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..27/04/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The matters were heard almost in the month of March but orders could not be pronounced because Technical Member was not available. Technical Member will not be available for another couple of weeks, hence, matter cannot be kept pending for pronouncement because hearing was concluded almost a month ago. Hence orders are pronounced invoking Rules 151 of NCLT Rules, 2016 with consent of other Member.

-SD-
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)


MADAN B GOSAVI
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
DIVISION BENCH
COURT-1**

CP (IB) No.73/9/NCLT/AHM/2020

In the matter of :

Mr. Navneet B. Kamani
(Proprietor & Authorized Signatory
of Vishnu Silk)
Having its Office at:
Survey No. 128, Plot No. 3,
Navapara Road,
Mota Borasara, Kim (Surat).

..... Applicant

Versus

1. P.G Silk Mills Private Limited
Having its Registered Office at:
Shop No. C-1004,
Gopal Chamber,
Salabatpura, Ring Road,
Surat-395006.

....Respondent

2. Union of India
Notice to be served through
The Secretary
Ministry of Corporate Affairs
Government of India
Having Address at:
A' Wing, Shastri Bhawan
Rajendra Prasad Road
New Delhi 110 001

..... Deleted
(as per the order of Hon'ble NCLAT)

 1

Appearance:

Mr. Arpit R. Singhvi, Advocate for the Applicant.

Mr. Kunjal Dalal, PCS, for the Corporate Debtor.

Order Reserved on : 23.03.2022.

Order Pronounced on : 27.04.2022.

**Coram: Madan Bhalchandra Gosavi, Member (Judicial)
Kaushalendra Kumar Singh (Technical)**

ORDER

[Per: Madan Bhalchandra Gosavi, Member (J)]

1. This Application is filed by Mr. Navneet B. Kamani, the Proprietor of M/s Vishnu Silk (hereinafter referred to as "Operational Creditor") under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC") to initiate Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against M/s P.G Silk Mills Pvt. Ltd. (hereinafter referred to as "the Corporate Debtor") on a ground that Corporate Debtor committed default in paying an Operational Debt to the tune of Rs.15,20,526/-.
2. It is noted that in view of the order dated 22.11.2019 passed by the Hon'ble NCLT, Principal Bench, New Delhi, in Oriental Bank of Commerce vs. M/s. Sikka Papers Ltd. & Ors. the Applicant has impleaded MCA as Respondent No.2 in the present application. However, the Hon'ble NCLAT vide

2



order dated 22.05.2020 had set aside the said order of Hon'ble NCLT Principal Bench. In view thereof, the present application is considered to be filed only against the Corporate Debtor.

3. It is submitted that the Operational Creditor deals in the business of Textile Manufacturing. In between 09.09.2017 to 11.12.2017, the Corporate Debtor availed textile services from the Operational Creditor. The Operational Creditor raised various invoices. The invoices are annexed with the petition as Annexure-II (A) to II (P).
4. It is submitted that the Operational Creditor annexed the transport challan evidencing supply of goods to P.G. Silk Mills Private Limited totalling to Rs.15,20,526/-. In spite of repeated demands, the Corporate Debtor failed and neglected to clear the outstanding amount. On 20.12.2019, Operational Creditor has sent an e-mail demanding outstanding payment, which was not replied by the Corporate Debtor. Hence, on 20.12.2019 the Operational Creditor sent a Demand Notice under Section 8 of the IBC to the Corporate Debtor which was duly received on 23.12.2019 by the Corporate Debtor. The Corporate Debtor replied to the notice raising falls defence therein and did not clear the debt. Hence, this application is filed to initiate the CIRP of the Corporate Debtor under Section 9 of the IBC.



5. The Corporate Debtor has been served the notice of this application. Mr. Paramjitsingh Indersingh Gulati, Director, of P.G. Silk Mills Private Limited, appeared in the proceeding, through an advocate, and filed affidavit in reply.
6. In para-4 of the affidavit in reply, the Corporate Debtor admitted that the amount claimed in the application towards unpaid bills are payable by them. No dispute has been raised by them relating to supply of goods by Operational Creditor.
7. We have heard the Ld. Counsel for the Applicant as well as Ld. Counsel for the Respondent and perused the materials available on record. It is noted that the Operational Creditor has supplied the goods to the Corporate Debtor and raised the invoices of Rs.15,20,526/-. It is also noted that the demand notice under Section 8 of IBC was also sent to the Corporate Debtor, the Corporate Debtor replied to the demand notice but did not clear the claim amount to the Operational Creditor. The corporate Debtor in its reply dated 12.03.2020 has clearly admitted the amount of Rs.15,20,526/- and also admitted that there is no previous dispute in respect to the service of goods.
8. The instant petition is otherwise defect free and meets the threshold limit as prescribed under Section 4 of IBC as in this petition the claim amount is Rs.15,20,526/- and the present petition was filed on 10.01.2020 i.e. prior to the



Notification of the Ministry of Corporate Affairs, New Delhi, dated 24th March, 2020, whereby the default amount is raised up to Rs.1,00,00,000/- (Rupees One Crore) from Rs.1,00,000/- (Rupees One Lakh) as per Section 4 of the IBC.

9. In view of the above stated discussion, it is found that the present IB Petition is complete and fit for triggering the Insolvency Resolution Process in respect of Corporate Debtor. Therefore, the present IB Petition, filed under Section 9 of the Code, deserves admission. The Operational Creditor did not suggest the name for appointment of Insolvency Resolution Professional (IRP) to conduct the CIRP of the Corporate Debtor. Hence, we appoint the IRP from the list provided to us by IBBI. With this, we admit the Corporate Debtor in CIRP by following order:-

ORDER

- 1) The Corporate Debtor, viz., M/s. P.G. Silk Mills Private Limited is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
- 2) The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
 - 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;
 - 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.
- 3) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
- 4) We hereby appoint Mr. Pankaj Prabhudayal Goenka having Registration No. IBBI/IPA-001/IP-

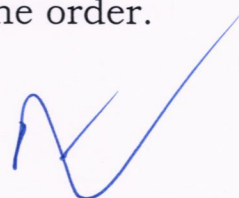


P-02129/2021-22/13903, (E-mail ID : goenkap@gmail.com) to act as an IRP under Section 13(1) (c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:

- 5) The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- 6) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.



- 7) It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.1,00,000/- (Rupees One Lakh Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.
- 8) The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.



8. Accordingly, CP(IB) No.73/9/NCLT/AHM/2020 is allowed. However, Insolvency Resolution Professional / Resolution Professional to file progress report through IA so that which can be taken on record by this Adjudicating Authority.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)


MADAN B GOSAVI
MEMBER (JUDICIAL)

Sapna/Ramashish