

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT NO. IV)**

Company Petition No. IB-1323/ND/2018

*(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:

Mr. BARFLEX POLYFILMS PVT LTD

...Applicant/Operational Creditor

VERSUS

M/s AHUJA ROLLER FLOUR MILL PVT LTD

...Respondent/Corporate Debtor

Pronounced on: 19.09.2019

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

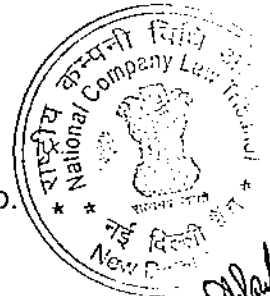
HON'BLE MEMBER (Technical)

For the Applicant: Ms. Pooja Saigal, Adv., Mr. Akshay Gupta, Adv

For the Respondent: Ex-Parte

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Handwritten signature and date: 19/09/19

MEMO OF PARTIES

M/s BARFLEX POLYFILMS PVT LTD

HAVING ITS REGISTERED OFFICE AT:

H.No. C-30/8, Third Floor,

L/S Madanpur Khadar Extn

Part-1, Sarita Vihar, Gali No.8,

Near Samossa Chowk,

New Delhi-110076

...Applicant/Operational Creditor

VERSUS

M/s AHUJA ROLLER FLOUR MILL PVT. LTD

HAVING ITS REGISTERED OFFICE AT:

C-6/9, 10, 11,

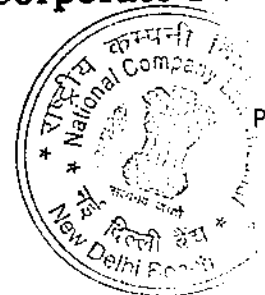
Lawrence Road, Industrial Area

New Delhi- 110035

...Respondent/ Corporate Debtor

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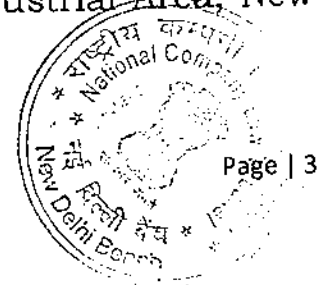
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ORDER

PER-SHRI HEMANT KUMAR SARANGI MEMBER (T)

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Barflex Polyfilms Pvt. Ltd. (for brevity 'Applicant'), through its director Mr. Jaiwant Bery authorizing him to file present application vide Board resolution dated 02.05.2019, with a prayer to initiate the Corporate Insolvency Resolution Process against M/s Ahuja Roller Flour Mill Pvt. Ltd. (for brevity 'Respondent').
2. The Applicant, the Operational Creditor, namely M/s Barflex Polyfilms Private Limited is a company incorporated on 24.01.2005 under the provisions of Companies Act, 1956 with CIN No.U25209DL2005PTC132346, having its registered office at C-6/9, 10, 11, Lawrence Road, Industrial Area, New



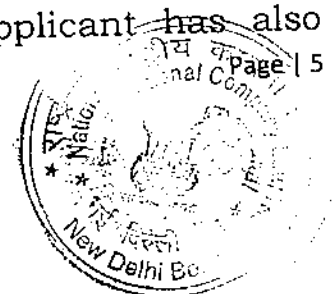
Delhi-110035 inter alia, is involved in the business of providing goods in the nature of packaging material.

3. The Respondent, namely M/s Ahuja Roller Flour Mill Private Limited is a company incorporated on 01.04.2010 under the provisions of Companies Act, 1956 with CIN No.U15122DL2010PTC201035, having its registered office at C-6/9, 10, 11, Lawrence Road Industrial Area, New Delhi-110035. The Authorised Share Capital of the respondent company is Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only) and Paid Up Share Capital of the company is Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only) as per Master Data of the company.
4. It is the case of the applicant that, during the period from 28.11.2017 to 02.01.2019, 8 invoices were issued on the respondent for the supply of material, the copies of said invoices have been annexed
5. Pursuant to the said invoices, the Corporate Debtor made payment by way of 5 cheques for entire dues, total amounting to Rs.22,82,607/-. All the 5 cheques issued by the Corporate Debtor were dishonoured and returned by the bank with the



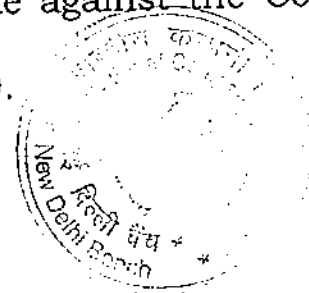
remarks 'Funds Insufficient'. The copies of the above mentioned cheques, along with return memo, are annexed.

6. The applicant further states that, pursuant to the dishonor of cheques, he issued notices under section 138 of the Negotiable Instruments Act dated 06.05.2019 to the respondent. The copy of said notices along with the postal receipt is also annexed along with the application.
7. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 04.05.2019 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the payment of Rs.25,46,587/- (Rupees Twenty Five Lakhs Forty Six Five Hundred Eight Seven only) inclusive of interest of Rs.2,63,980/- (Rupees Two Lakhs Sixty Three Thousand Nine Hundred Eighty Only) calculated @ 18% per annum on delayed payments, within 10 days from receipt of the notice, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.
8. The said section 8 notice has been sent by registered post to the respondent by the applicant. The applicant has also

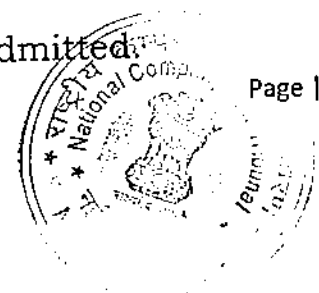


placed on record The postal receipt along with the tracking report showing the demand notice been delivered to the office of the corporate debtor.

9. Despite the demand notice sent under Section 8 of the Code, the Respondent failed to pay the amount demanded and has neither raised any notice of dispute nor replied to the said notice.
10. Hence, the present application under section 9 of the IBC, 2016 was filed by the applicant to initiate CIRP. The learned counsel for the applicant has also filed affidavit of service showing service through dasti has been effected on the respondent. The acknowledgement received in respect of service of the said notice by the learned counsel has also been annexed along with this application.
11. In spite of service of application under section 9, the corporate debtor has not filed any reply.
12. This Tribunal has proceeded ex-parte against the Corporate Debtor as per order dated 17.07.2019.



13. The applicant has filed an affidavit under Section 9(3)(b) stating that no notice of dispute from Corporate Debtor is received.
14. The applicant has attached the copy of Bank statements issued by M/s. Yes Bank Limited, in compliance with the requirement of Section 9(3)(C) of the IBC 2016.
15. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
16. On perusal of the record it is clear that the default has occurred on 01.02.2019 when the last invoice fell due. Hence, the claim is not time barred and the present application is well within the limitation period.
17. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, more so when the debt has remained undisputed in spite of service of section 8 notice and present application. Requirements under section 9(5) of the Code are fulfilled. Hence, the present application is admitted.



18. The Applicant has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Mr. Kumud Shekhar having registration no. IBBI/IPA-003/IP-N00206/2018-2019/12358 and email address kumud.shekhar@gmail.com and contact number is 9654383328, as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.
19. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional Mr. Kumud Shekhar to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.

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20. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.
21. The registry is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.

Sd/-
(HEMANT KUMAR SARANGI)
MEMBER (T)



Sd/-
(DR. DEEPTI MUKESH)
MEMBER (J)