

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 1**

ITEM No 134  
CP(IB) 133 of 2020

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Arrow Digital Pvt Ltd  
V/s  
Positive Point Graphics Pvt Ltd

.....Applicant

.....Respondent

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Ajai Das Mehrotra, Hon'ble Member(T)

**Order delivered on ..21/12/2021**

**PRESENT**

For the Applicant :

For the Respondent :

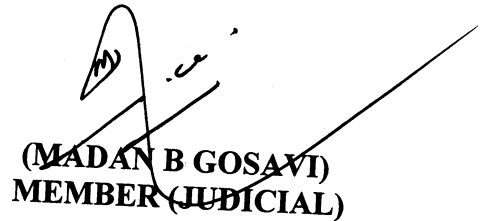
**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in the open court, vide separate sheet.



(AJAI DAS MEHROTRA )  
MEMBER (TECHNICAL)



(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**CP (IB) No.133 of 2020**

[An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

**Arrow Digital Private Limited**

(CIN No: U29294GJ2003PTC042332)

Having registered address at:

1005-6, 'ADITYA', 10<sup>th</sup> floor,

Nr. Sardar Patel Sewa Samaj

Mithakali, Navrangpura,

Ahmedabad – 380006

**..Operational Creditor**

**Versus**

**Positive Point Graphics Pvt. Ltd**

(CIN No: U22219GJ1997PTC032190)

Having registered address at:

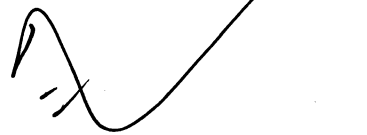
B01, Shaswat,

Opposite Gujarat College,

Ellis Bridge,

Ahmedabad – 380006

**...Corporate Debtor**



**Order reserved on 30.11.2021**  
**Order pronounced on 21.12.2021**

**Coram: Madan B. Gosavi (Member Judicial)**  
**Ajai Das Mehrotra (Member Technical)**

**Appearance:**

Ld. Counsel Ms. Garima Malhotra appeared for the Operational Creditor

**ORDER**

**[PER BENCH]**

1. The present application is filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC 2016**") by Operational Creditor, Arrow Digital Private Limited to initiate the Corporate Insolvency Resolution Process against Corporate Debtor, Positive Point Graphics Pvt. Ltd for the default amount of Rs. 6,95,264/- and interest thereon.
2. The facts, in brief, are that the Operational Creditor is engaged in the business of trading and selling of different types of digital printing machine, inks and consumables and distribution of range of materials and equipment for digital printing and that the Corporate Debtor is engaged in the business of printing of advertising banners, hoardings etc. The Corporate Debtor has



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been purchasing inks and various consumables from the Operational Creditor.

3. The Operational Creditor from time to time supplied inks and various consumables to the Corporate Debtor and invoices were raised against the supplied material from 07.02.2017 to 12.12.2017 amounting to Rs.6,95,264/- and interest of Rs. 4,05,052/- as on 24.01.2020. The aforesaid amount is not paid by the Corporate Debtor even after number of reminders and request.
4. The Operational Creditor issued demand notice on 09.12.2019 under Section 8(1) of IBC, 2016 read with Rule 5 of IBBI (Application to the Adjudicating Authority) Rules, 2016 (hereinafter referred to as "**AA Rules**") of the I.B. Code, 2016 in Form 3 to the Corporate Debtor which was duly delivered to the Corporate Debtor on 11.12.2019.
5. The Corporate Debtor replied to the notice dated 09.12.2019 of the Operational Creditor on 20.12.2019. The Corporate Debtor stated in the reply dated 20.12.2019 that the invoices, statement of accounts and interest calculated are not true and acceptable. The Corporate Debtor has also raised dispute on supply of inferior quality of ink which resulted in problems to the machinery that caused replacement of machinery amounting to approx. Rs. 10,00,000/-.

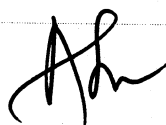


6. The Operational Creditor replied back on 13.01.2020 against the reply of Corporate Debtor dated 20.12.2019. The Operational Creditor denied the allegations made by the Corporate Debtor regarding inferior quality of ink and stated that the assertion of Corporate Debtor that amount of Rs. 10,00,000/- was spent for replacement of the machinery is frivolous and baseless. Since the Corporate Debtor failed to repay the default amount to the Operational Creditor, the Operational Creditor has filed this present application for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") on 04.02.2020 before this Authority.
7. The counsel of the Operational Creditor appeared and submitted that the Corporate Debtor has availed the services from the Operational Creditor. The Operational Creditor raised sixteen invoices viz. Invoice No. SI-106/16-17 dated 07.02.17, Invoice No. 517/16-17 dated 21.02.17, Invoice No. 518/16-17 dated 21.02.17, Invoice No. 014/17-18 dated 08.04.17, Invoice No. 083/17-18 dated 19.05.17, Invoice No. 099/17-18 dated 27.05.17, Invoice No. 118/17-18 dated 13.06.17, Invoice No. 093/17-18 dated 05.08.17, Invoice No. 128/17-18 dated 17.08.17, Invoice No. 147/17-18 dated 22.08.17, Invoice No. 150/17-18 dated 24.08.17, Invoice No. 170/17-18 dated 31.08.17, Invoice No. 185/17-18 dated 06.09.17, Invoice No.



218/17-18 dated 15.09.2017, Invoice No. 265/17-18 dated 29.09.17 and Invoice No. 492/17-18 dated 12.12.17 for the total amount of Rs. 6,95,264/- along with interest of Rs. 4,05,052/- at 24% per annum for over due payment which is mentioned in the invoices.

8. We have heard the learned counsel of the Operational Creditor and perused the material on record. It has been noted that invoices have been raised by the Operational Creditor against which no payment has been made by the Corporate Debtor. A demand notice has been issued by the Operational Creditor on 09.12.2019 against which reply was given by the Corporate Debtor on 20.12.2019. However, no complaint regarding poor quality of products and inferior quality of ink was raised prior to the notice sent by the Operational Creditor on 09.12.2019. It is noted that dispute raised by the Corporate Debtor in respect to interest component is not maintainable as all the invoices have been duly acknowledged by the Corporate Debtor which contain condition that interest is payable @ 24% on delayed payments. These invoices also meet out the threshold as envisaged under section 4 of IBC 2016, and well within the limitation for filing the present application.
9. The present application is defect-free and complies with all the relevant provisions of the IBC 2016. The Operational Creditor has



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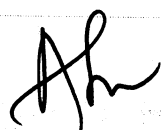
(hereinafter referred to as “IRP”) in the application, therefore we appoint Mr. Lalitkumar Vithaldas Raithatha having registration No. IBBI/IPA-001/IP-P01941/2019-2020/12996 as IRP. In view of the above observations the present application is allowed with the following directions;

**ORDER**

1. The instant application is admitted and the moratorium 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.*

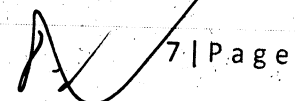
2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency



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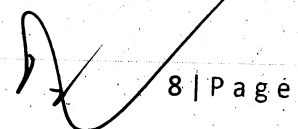
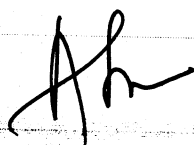
Resolution Process or until this Adjudicating Authority approves the Resolution Plan under Section 31(1) or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

3. The Operational Creditor has not proposed the name of IRP in the application, therefore we appoint Mr. Lalitkumar Vithaldas Raithatha having registration No. IBBI/IPA-001/IP-P01941/2019-2020/12996 and registered mail ID [calalit@srlco.in](mailto:calalit@srlco.in) to act as an IRP.
4. The IRP shall perform all functions as contemplated, *inter-alia*, by Sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person associated with management of the Corporate Debtor are under a legal obligation under Section 19 of the IB 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 the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



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5. This Adjudicating Authority directs the IRP to make a public announcement for 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.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
7. The IRP shall be under duty-bound 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 an obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
8. The Operational Creditor is directed to pay an advance of Rs. 25,000/- 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.
9. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor, and the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within



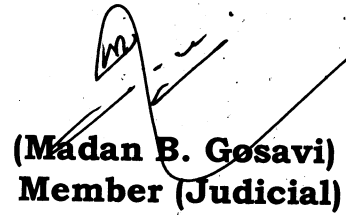
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seven working days and upload the same on the website immediately after pronouncement of the order.

10. Accordingly, **CP (IB) No.133 of 2020** is allowed and disposed of.



**(Ajai Das Mehrotra)**  
**Member (Technical)**



**(Madan B. Gosavi)**  
**Member (Judicial)**

Shweta Desai