

IRP

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

IBA/1081/2019

Under Section 9 r/w Rule 6 of the IBC, 2016

In the matter of M/s. AKP Plastics Private Limited

M/s. Star Pet Trading Private Limited

---Operational Creditor

V/s

M/s. AKP Plastics Private Limited

---Corporate Debtor

Order delivered on: 21.11.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Shri. S. R Raghunathan, Advocate*

Shri. Rohan Rajasekaran, Advocate

Ms. Preethi Arasu, Advocate

For the Corporate Debtor : *None-Present on the date of hearing*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 19.11.2019

It is an Insolvency and Bankruptcy Application filed u/s 9 of the

Insolvency & Bankruptcy Code, 2016 ("the Code") by M/s. Star Pet

Trading Private Limited (hereinafter called as "Operational



Creditor") for initiation of Corporate Insolvency Resolution Process (in short "CIRP") against M/s. AKP Plastics Private Limited (hereinafter called as "Corporate Debtor") on the ground the Corporate Debtor defaulted in paying ₹46,66,570 plus additional interested calculated @ 18% p.a till date of payment.

2. On perusal of the Application, it appears that this Applicant raised two invoices and respective E-way bills bearing Nos.ST/2018-19-I/268 and ST/2018-19-I/307 dated 09.11.2018 and 12.12.2018 respectively on account of supply of imported plastic raw materials and PET, EVA HDPE, LDPE, LLDPE Polycarbonate etc to the Corporate Debtor. Since it is a running account, the applicant has maintained ledger statement reflecting the amount due and payable by the Corporate Debtor is ₹40,85,930.

3. When the Corporate Debtor failed to pay off this balance, the Operational Creditor sent its ledger account reflecting ₹45,85,930 dues payable as on 4.11.2019 along with a claim of interest of ₹5,80,640 @18% until 30.06.2019, putting together ₹46,66,570 as claim realizable from the corporate debtor. To which, the Corporate



Debtor simultaneously sent cheque against the dues payable to the Operational Creditor, but the cheque was dishonored with "return memo" dated 04.07.2019. As the Debtor defaulted in paying the dues of the Operational Creditor, it has issued notice under Section 8 of the Code on 06.07.2019. When neither a reply to the section 8 notice received on 24.07.2019 nor has payment come from the Corporate Debtor, the Operational Creditor has filed this Insolvency and Bankruptcy Application u/s 9 of the I & B Code for initiation of the Corporate Insolvency Resolution Process.

4. The Corporate Debtor Counsel was present in this matter on the last date of hearing i.e. on 07.11.2019, but today none present on behalf of the Corporate Debtor to this hearing date, therefore we are constrained to pass this order.

5. Looking at the material placed by the Operational Creditor herein, it is evident on record that Corporate Debtor availed goods from the operational creditor and then defaulted in paying off despite receipt of section 8 notice, in the meanwhile the debtor even



issued cheque for the principal as well as interest as claimed by the operational creditor, but that was dishonored.

6. In view of the same, we are of the considered view that the applicant has proved existence of debt and default, therefore we hereby admit this Application by appointing Mr. S. Muthuraju as Interim Resolution Professional with the following directions:

(I) That Moratorium is hereby declared prohibiting all of the following actions, 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);



(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.

(II) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(IV) That the order of moratorium shall have effect from 19.11.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

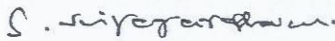
(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

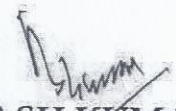


(VI) That this Bench hereby appoints Mr. S. Muthuraju, as Interim Resolution Professional, having Reg. No: [IBBI/IPA-002/IP-N00009/2016-17/10013], No. 3, Sundaram Brothers Layout, Opposite to All India Radio, Trichy Road, Ramanathapuram, Coimbatore-641045, E-Mail: smrajunaidu@gmail.com, Mobile No: 9994103021 with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

6. Accordingly this petition is hereby admitted.

7. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

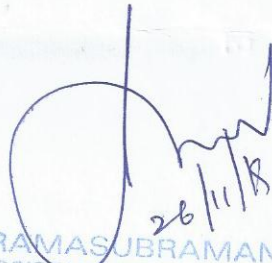

(S. VIJAYARAGHAVAN)
MEMBER (Technical)


(B. S.V. PRAKASH KUMAR)
MEMBER (Judicial)

ELZ/TJS



Certified to be True Copy


26/11/18
N. SRIRAMASUBRAMANIAN
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