

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No. 40
CP(IB) 59 of 2020

Order under Section 9 IBC, 2016

IN THE MATTER OF:

Shine Plastics Through Its Proprietor Mr. Shaileshkumar
Jasubhai Shah
V/s
Classic Build Projects Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..20/07/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in open Court vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

MADAN B GOSAVI
MEMBER (JUDICIAL)

Swetambary

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
Court No. I**

C.P. (I.B.) No.59/NCLT/AHM/2020

(An Application under section 9 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

Shine Plastics

Through proprietor
Mr. Shaileshkumar Jasubhai Shah
201, Aatish Annexe, Nr. Samarpan,
Flats, Gulbai Tekra, Panchvati,
Ahmedabad – 380 006

....Applicant/Operational Creditor

Versus

Classic Build Projects Private Limited

CIN: U45201GJ2008PTC055519

1-2, Royal Nawab Avenue, Nr. Hotel Garden,
Opp. Old Agro Petrol Pump, Juhapura,
Sarkhej Road, Ahmedabad – 380 055

....Respondent/Corporate Debtor

Order delivered on. 20.07.2022

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

Appearance:

For the Petitioner : Mr. Hardik B. Shah, Ld. Adv.

For the Respondent : Ex-parte

[ORDER]

1. The instant application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“**IB Code, 2016**”) by proprietor of M/s. Shine Plastice - Operational Creditor to initiate Corporate Insolvency Resolution Process (“**CIRP**”) against M/s. Classic Build Projects Private Limited - Corporate Debtor. The amount of debt in default is Rs. 8,58,956/- including interest. The date of default as stated to be 16.08.2017.

2. The averments made by the Operational Creditor are summarized as under:

(i) There were business relations between the Operational Creditor and the Corporate Debtor, the Operational Creditor supplied the goods to the Corporate Debtor as per the requirement of the Corporate Debtor. The operational debt in default is stated to be of Rs. 8,58,956/- (Principal outstanding amount is Rs. 5,51,933/- + Interest @ 18% charged upto 28.11.2019 i.e. Rs. 3,07,023/-). The Operational Creditor received last payment of Rs. 1,00,000/- from the Corporate Debtor on 16.08.2017.

(ii) The Operational Creditor issued a demand notice dated 11.12.2019 to the Corporate Debtor in Form-3 and Form-4 under Section 8 of the IB Code, 2016 for the payment of Rs. 8,58,956/- which was delivered at the registered address of the Corporate Debtor on 19.12.2019. A copy of the demand as well as track report is on record. The Corporate Debtor neither repaid the debt nor replied to the demand notice.

3. In compliance of Section 9 (3) (b) of the IB Code an affidavit is filed by the Operational Creditor stating that neither payment was made nor notice of dispute was received from the Corporate Debtor.

4. We have heard the learned counsel for the Operational Creditor and perused the material on record. It is noted that the Operational Creditor has supplied the goods to the Corporate Debtor and raised an invoice of Rs. 5,51,933/-. The copy of invoices along with delivery challan is annexed at page no. 12 to 123. The demand notice was issued by the Operational Creditor on 11.12.2019 and same was delivered to the Corporate Debtor on 17.12.2019. This Adjudicating Authority vide order dated 25.02.2020 again directed to the Operational Creditor to supply the copy of the application and inform the Corporate Debtor to appear and contest this present application but no one appeared on behalf of the Corporate Debtor. Hence, this Adjudication Authority vide order dated 08.03.2021 decided to proceed Ex-parte against the Corporate Debtor.

5. Even after giving sufficient opportunities to the Corporate Debtor, none appeared on behalf of the Corporate Debtor. The present application is complete in view of Section 9(5) of the IB Code, 2016. The present application has been filed on 01.01.2020 and the claim amount of Rs.8,58,956/- meets the threshold limit as prescribed under Section 4 of the IB Code, 2016. It is also well within the limitations.

6. 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

- i) The Corporate Debtor, viz., M/s. Classic Build Projects Private Limited is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
- ii) 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.
- iii) 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.
- iv) We hereby appoint **Mr. Hiten Mukundbhai Parikh** having **Registration No.IBBI/IPA-002/IP-N00309/2017-18/10898, (E-mail ID : hiten@smajmudar.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:
- v) 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.

- vi) 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.

- vii) 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.50,000/- (Rupees Fifty Thousand 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.

- viii) 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. 59/9/NCLT/AHM/2020 is allowed and disposed of.

-SD-
(Kaushalendra Kumar Singh)
Member (Technical)

-SD-
(Madan B. Gosavi)
Member (Judicial)

Swetambary/Ramashish