

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-IV

IB-712/(ND)/2020

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

M/s Newgen Specialty Plastics Limited
Through its liquidator
Mr. Anil Kumar

...Operational Creditor/Applicant

Versus

M/s Dor Tech Doors India Private Limited

...Corporate Debtor/Respondent

Coram:

SHRI. DHARMINDER SINGH, Hon'ble Member (Judicial)

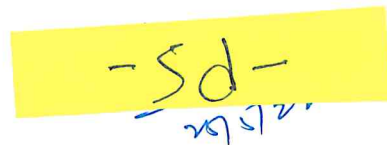
MS. SUMITA PURKAYASTHA, Hon'ble Member (Technical)

Order Delivered on: 25.05.2022

ORDER

PER: SHRI DHARMINDER SINGH, MEMBER (JUDICIAL)

This is an application filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent company, claimed to be the corporate debtor.



2. The applicant, Newgen Specialty Plastics Limited through its liquidator Mr. Anil Kumar having IBBI Registration Number IBBI/IPA-001/IP-P00144/2017-2018/10308 has filed the present application claiming as the operational creditor with the prayer for initiation of Corporate Insolvency Resolution Process under the provisions of the Code.

3. The details of transactions leading to the filing of this petition as averred by the petitioner are as follows:
 - a. The Operational Creditor has successfully carried out the contractual obligation towards the Corporate Debtor.
 - b. The Operational creditor submits that they had supplied 5,000.00 kg of Isocynate-2929 for the value of Rs. 13,45,200.00/- against which invoice dated 26.03.2018 was issued to the Corporate Debtor.
 - c. The Operational Creditor further submits that later on 28.03.2018 the Corporate Debtor subsequently purchased 5,000.00 kg of Isocynate-2929 for the value of Rs. 12,86,200.00/- and with respect to the same the invoice was issued.
 - d. The Operational Creditor sent a Demand Notice dated 27.01.2020 demanding payment of an unpaid operational debt as per provisions under

Rule 5 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules,
2016 via Speed Post.

4. The Corporate Debtor has not submitted his reply, therefore the Corporate Debtor is proceeded ex-parte.
5. We have heard Ld. Counsel for the Applicant and perused the averments made in the application filed by the party. In the present matter, it is evident that there are two invoices unpaid aggregating Rs. 31,88,195/- at the end of the Corporate Debtor and to which the Corporate Debtor never submitted any dispute before this Tribunal. Resultantly, the present petition stands Admitted.
6. In view of the foregoing documents, this Tribunal is of the affirm view that there was default on the part of the respondent in pursuance of invoices raised on behalf of the applicant, accordingly, the present application stands admitted in terms of Section 9(5) of the Code and CIRP is hereby ordered to be initiated against the respondent Corporate Debtor, forthwith.
7. The operational creditor has proposed the name of an Interim Resolution Professional therefore this bench appoints Mr. Rajesh Kumar Parakh as Interim Resolution Professional having registration number IBBI/IPA-001/IP-00272/2017-18/10516 with email – id: rajesh@gmail.com who has also agreed to accept the appointment as the interim resolution professional

and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. In addition, further necessary disclosures have been made by IRP above named as per the requirement of the IBBI Regulations.

8. We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Rajesh Kumar Parakh to meet out the expense 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 one week 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.

9. 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 corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

- Sd -

10. A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Let copy of the order be served to the parties.

Consign the file to the record room.

-Sd-

(SUMITA PURI AYASTHA)
MEMBER (T)

-Sd-

(DHARMINDER SINGH)
MEMBER (J)