

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP(IB) 619 of 2019

**Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL , AHMEDABAD BENCH ON 22.10.2020**

Name of the Company: Mahanad Thakur Prop.
Of Smart Secure Solutions
V/s
Vansh Exports Pvt. Ltd.

Section: 9 IBC,2016

ORDER

The case is fixed for pronouncement of order.

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


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**


**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

Dated this the 22nd day of October, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) No.619/9/NCLT/AHM/2019

In the matter of:

Mr. Mahanand Thakur,
D-301, Pearl Apartment,
Opp. Rajiv Nagar,
Nr. Shyamal Cross Road,
Satellite, Ahmedabad – 380015.

... Petitioner/Operational Creditor

V/s.

M/s. Vansh Exports Private Limited,
206, Ganesh Meridian,
Opp. Gujarat High Court,
S.G. Highway, Sola,
Ahmedabad – 380061.

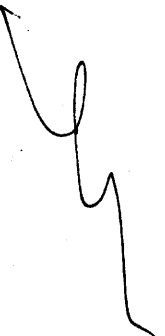
... Respondent/Corporate Debtor

Order delivered on 22nd October, 2020

**Coram: Madan B. Gosavi, Member(Judicial)
Virendra Kumar Gupta, Member (Technical)**

Appearance:

Learned Counsel Mr. Kamil Lokhandwala for the Petitioner.
None for the Respondent.



ORDER

[Per: Madan B. Gosavi, Member (Judicial)]
(Through Video Conferencing)

1. Mr. Mahanand Thakur, proprietor of Smart Secure Solutions , the Operational Creditor has filed this application under Section 9 of the Insolvency and Bankruptcy Code, 2016 against M/s. Vansh Exports Private Limited – Corporate Debtor to start the Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor on the ground that the Corporate Debtor committed default in paying operational debt of Rs.22,65,085/- (Rupees Twenty-Two Lakh Sixty-Five Thousand Eighty-Five Only) plus interest thereof. The date of default is stated to be in the month of June 2019.

2. It is stated that the Operational Creditor issued purchase order to the Corporate Debtor for supply of goods. For the purpose he gave a sum of Rs. 31.00/- lakhs as advance. Out of which a sum of Rs. 22,65,085/- remained outstanding. The Corporate Debtor issued a cheque for the impugned sum to settle the matter, however, the said cheque was dishonored. Proceeding under Section 138 of the Negotiable Instruments Act, 1881 were also initiated. Thus, the corporate debtor committed default for the repayment of operational debt.

3. Hence, on 26.06.2019, operational creditor sent the Corporate Debtor a notice of Demand under Section 8 of the I.B. Code. In spite of receipt of notice, the Corporate Debtor did not pay the debt. Hence, this proceeding was started to initiate Corporate Insolvency Resolution Process of the Corporate Debtor.
4. The Corporate Debtor was served with the notice of this application by way of email as well as by speed post. No one appeared on behalf of the Corporate Debtor. Hence, this Adjudicating Authority directed the Operational Creditor to publish the notice in newspaper. It was also published. In spite of due publication of notice of the application, no one appeared for the Corporate Debtor and hence, this application was ordered to proceed 'ex-parte'.
5. We heard the Learned Counsel for the Operational Creditor. We perused the evidences on record. The Operational Creditor has produced the purchase orders. He also produced the statements of his accounts maintained in Kotak Mahindra Bank. The Learned Counsel pointed out entries in Bank Account to indicate the amount towards advance of supply of goods was transferred to the account of the Corporate Debtor. The Operational Creditor also produced on record the copy of cheque issued by the Corporate Debtor towards repayment of the Operational debt. It is on record that the cheque was dishonored. It is also noted that in case of money which is advanced for purchase of goods, if goods are not supplied by the corporate debtor, then



such outstanding money becomes an operational debt within the meaning of provisions of Section 5(21) of the IBC, 2016.

6. The Operational Creditor submitted on record an affidavit stating that there is no pre-existing dispute with the Operational Debt. The Operational creditor has complied with provisions of Section 9(3)(b) and 9(3)(c) of the I.B. Code. It is also seen that the cd has not filed any affidavit in reply nor participated in this proceedings, hence, a logical inference which is drawn is that the corporate debtor has nothing to say in the matter.
7. The Operational Creditor suggested name of one Mr. Kedar Ramratan laddha having registration no.IBBI/IPA-001//IP-P00586/2017-2018/11115 for appointment as IRP against whom there are no disciplinary proceedings pending.
8. The application is defect free and hence, we direct the Corporate Debtor to be admitted in CIRP by following order:

ORDER

1. The Corporate Debtor, M/s. Vansh Exports Private Limited is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
2. 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.
3. 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 subsection (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.
4. We hereby appoint **Mr. Kedar Ramratan laddha having registration no.IBBI/IPA -001//IP-P00586/2017-2018/11115, Phone: 079-66653333, Mobile:**

9737533000, email: ip@kpsjca.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:

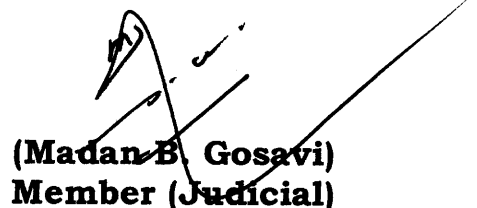
5. The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extending 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.
6. This Adjudicating Authority directs the IRP to make a 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.
7. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
8. 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 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.

9. 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.
10. Accordingly, CP (IB) No. 619/9/NCLT/AHM/2019 stands admitted.



(Virendra Kumar Gupta)
Member (Technical)



(Madan B. Gosavi)
Member (Judicial)