

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P (IB) No.80/KB/2020

PLB Logistics Private Limited

.... Operational Creditor

-Versus -

Simpex Safety & Apparels LLP

.....Corporate Debtor

Coram: Mr. Rohit Kapoor, Hon'ble Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

C O R R I G E N D U M O R D E R

- 1.** In the order dated 18/05/2022, the name of the Corporate Debtor has been inadvertently typed as "*Simplex Safety & Apparels LLP*", Therefore, the name of the Corporate Debtor in the Cause Title and in paragraph 2 of the order should be read as "**Simpex Safety & Apparels LLP**".
- 2.** The rest of the order shall remain unchanged.

**(Harish Chander Suri)
Member (Technical)**

**(Rohit Kapoor)
Member (Judicial)**

Order Signed on 20/05/2022.



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH
KOLKATA**

C.P (IB) No.80/KB/2020

In the matter of

An application under 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

PLB Logistics Private Limited, having its office at 1, Grastin Place, “ORBIT” Unit 3F, Kolkata-700001.

... Operational Creditor

Versus

In the matter of:

Simplex Safety & Apparels LLP, having its registered FA/57/1, Narayan Tala West, P.O. Deshbandhu Nagar, Kolkata- 700059.

...Corporate Debtor

Date of hearing :01/04/2022

Order Pronounced on : 18 /05/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

Counsels appeared through Video Conference

1. Mr. Udit Agarwal, Adv.] For Operational Creditor
2. Mr. Varun Garg, Adv.



ORDER

Per: Harish Chander Suri, Member (Technical)

1. The Court is convened by video conference today.
2. This petition under 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by **PLB Logistics Private Limited**, having its office at 1, Grastin Place, "ORBIT" Unit 3F, Kolkata-700001, through its Director Mr. Kuldip Baid, vide Board Resolution dated 02/11/2019 (Annexure-C) (hereinafter referred as the Operational Creditor), seeking initiation of corporate insolvency resolution process in respect of **Simplex Safety & Apparels LLP**, having its registered FA/57/1, Narayan Tala West, P.O. Deshbandhu Nagar, Kolkata- 700059, (hereinafter referred as the Corporate Debtor).
3. It is submitted in the petition that the Operational Creditor and the Corporate Debtor had entered into numerous contracts for ocean freight, custom clearance and transportation of goods different working sites of the Corporate Debtor. After completion of the aforesaid work, the bills were raised by the Operational Creditor. Invoices were raised and were duly accepted by the Corporate Debtor and subsequently payments were made, but on and from 17th February, 2018 to 16th February 2019, the bills raised by the Operational Creditor were duly submitted to the Corporate Debtor for the encashment but the Corporate Debtor evaded payments with regard to those bills and the total amount accrued therefrom is Rs. 6,61,136/-
4. It is further submitted that by various communications and personal visits, the Operational Creditor reminded the Corporate Debtor to clear the bills but the Corporate Debtor failed to do so.
5. Finally, the Operational Creditor duly served a Demand Notice under



section 8 of the Code, 2016 dated 16th October, 2019 by Speed Post which was received by the Corporate Debtor on 21st October, 2019. It was also served by email for the unpaid operational debt along with interest. Notice was duly received by the Corporate Debtor but no reply to the demand notice was received by the Operational Creditor and the aforesaid operational debt has been disputed by the Corporate Debtor, therefore, an amount of Rs.6,61,136/- is due, outstanding and payable by the Corporate Debtor to the Operational Creditor by demand notice.

6. The Operational Creditor has annexed the following documents along with the petition which are as under:-

- a. A Copy of the Ledger Account maintained with the Operational Creditor is annexed as Annexure-F.
- b. Copies of the Tax invoices issued by the Operational Creditor is annexed as Annexure-G.
- c. A copy of the Demand Notice dated 16.10.2019 issued by the Operational Creditor along with the postal receipt and track report and Electronic Mail Dated 18.10.2019 evidencing the service are annexed as Annexure-H.

7. It is further submitted that a copy of the bank statement obtained and duly certified by the banker of the Operational Creditor is annexed as Annexure-E.

8. The Operational Creditor has also filed an affidavit under section 9(3)(b) stating that no reply to the demand notice or dispute with regard to the unpaid operational debt as stated in the petition has been received by the Operational Creditor from the Corporate Debtor.

9. After notice of this petition was served on the Corporate Debtor, the Corporate Debtor chose not to appear in these proceedings and therefore, vide order dated 3rd January, 2022, the Corporate Debtor was ordered to be proceeded ex parte. The matter was therefore, finally heard on 1st April, 2022,



since there is no reply to the demand notice nor is there any reply filed by the Corporate Debtor to this petition, and also because the Corporate Debtor has chosen not to participate in the proceeding in spite of notice having been received, we proceed to hear the Operational Creditor.

10. The Operational Creditor has taken us through all the averments in the petition, and the documents enclosed therewith. We are convinced that the amount of operational debt claimed by the Operational Creditor is due and payable by the Corporate Debtor, which the Corporate Debtor has failed to pay. We, therefore, deem fit to pass the following order:-

ORDERS

- i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, is hereby **admitted**.
- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:



- 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 (54 of 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.
- v) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33, the



moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

- ix) The Operational Creditor has not proposed name of any Insolvency Resolution Professional. Therefore, as per the provisions of Section 16(3) (a) of the IBC, so, we appoint **Ms. Rachana Agarwal , IRP** having Reg. No. **IBBI/IP-001/IP-P02442/2021-2022/13732**, email 08RKASSOCIATES@GMAIL.COM act as Interim Resolution Professional (IRP). She shall file Form-2, and that no disciplinary proceedings are pending against him with the Board.
- x) **Ms. Rachana Agarwal, IRP**, is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.
- xi) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xii) The Operational Creditor/Applicant is directed to deposit **Rs.50,000/- (Rupees Fifty Thousand only)** with the IRP appointed hereinabove within **three** days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.

11. Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.



12. List the matter on **04/07/2022** for filing of **Progress Report**.

13. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on the 18th day of May, 2022

PJ