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

C.P. (I.B) No. 503/9/NCLT/AHM/2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.03.2021

Name of the Company: Huhtamaki PPL Ltd
V/s
Manpasand Beverages Ltd

Section: 9 of the Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)
Dated this the 1st day of March, 2021

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Prakash

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

CP (IB) No.503/9/NCLT/AHM/2019

An application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016

In the matter of :

Huhtamaki PPL Limited.
12A-06, B-Wing, 13th Floor,
Parinee Crescenzo, C-38/39,
G-Block, Bandra Kurla Complex,
Bandra(E),
Mumbai-400051 ..Operational Creditor

Versus

M/s. Manpasand Beverages Ltd.
CIN: L15549GJ2010PLC063283
1768 & 1774 Patki-1,
Village Manjusar, Tal. Savli,
Vadodra-391775

..Corporate Debtor

Order reserved on 10th Day of February. 2021
Order Pronounced on 1st Day of March, 2021

Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:
Learned Senior Counsel Mr. Navin Pahwa a.w Learned PCS Mr. Hitesh Buch for the Operational Creditor.
Learned Senior Counsel Mr. Santosh Paul a.w Learned Counsel Mr. Jaimin Dave for the Corporate Debtor.

ORDER

[Per VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed by Huhtamaki PPL Limited-Operational Creditor to initiate CIRP against M/s. Manpasand Beverages Ltd. being Corporate Debtor. The outstanding sum has been claimed at Rs.1,31,00,825/- which includes interest of Rs.15,28,802/-.

2. The facts, in brief, are that the Operational Creditor supplied packing material from May 2016 to 2018 to 5th March 2019. A part-payment was received. Some credit note was also given. The Operational Creditor received the confirmation letter on 13.05.2019. The notice of demand under Section 8 of IBC, 2016 was issued on 30.05.2019 which was delivered on 03.06.2019. The Corporate Debtor replied to such Demand Notice on 05.06.2019 and 12.06.2019.

3. Learned Senior Counsel for the Operational Creditor narrated these basic facts. Our attention was also drawn to all the supporting documents in the paper book to substantiate its such claim. It was further claimed that there was no dispute and it was a case of an admitted debt which was well within the period of limitation.

4. It was also claimed that affidavit under Section 9(3)(b) of IBC, 2016 had also been filed. Accordingly, it was argued

that the application filed by the Operational Creditor is liable to be admitted.

5. During the course of hearing, Learned Counsel Mr. Jaimin Dave who was assisting Learned Senior Counsel Mr. Santosh Paul firstly sought short adjournment which was granted. However, Learned Senior Counsel Mr. Paul did not argue the matter at the time fixed as per his convenience. Learned Counsel Mr. Jaimin Dave at that time again sought short adjournment which was not granted as on the basis of submission made on behalf of Corporate Debtor on earlier occasion also, it was apparent that Corporate Debtor had nothing to say on merit to defend. It was also claimed from the reply submitted by the Corporate Debtor, that there were certain financial / legal issues with the Corporate Debtor which resulted into a financial distress and on account of that Corporate Debtor could not make the payment of the subject amount. In this regard, reference of action taken by the GST authorities was also made as a cause for the Corporate Debtor not being able to honour its commitments.

6. We have considered the submission made by all parties as well as material on record. As far as maintainability of application is concerned, all provisions of IBC, 2016 stand complied. Further, there is a debt which is due and payable and not barred by limitation. There is no pre-existing

dispute as well. The amount claimed is much more than the threshold limit of Rs. 1 lakh. The name of IRP has not been proposed as it is not mandatory in case of application filed under Section 9 of IB Code, 2016. We will appoint the IRP from the list maintained by the IBBI.

7. Considering the facts and applicable legal position, the application filed by the Operational Creditor is admitted and stands disposed-off. We further order as under:

ORDER

1. Corporate Debtor M/s. Manpasand Beverages Ltd. 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 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.

4. We hereby appoint Mr. Arpan Maheshkumar Shah having Registration No. IBBI/IPA-001/IP-P01847/2019-2020/12862, Email ID arpan@caarpanshah.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 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.

6. This Adjudicating Authority direct 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.

7. 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. 1,00,000/- (Rupees One Lakh 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 alongwith First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

8. Accordingly, CP(IB) No.503/9/NCLT/2019 is allowed.

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.

(Virendra Kumar Gupta)	**(Madan Bhalachandra Gosavi)**
Member (Technical)	**Member (Judicial)**

Prakash