

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 144
CP(IB) 729 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Shashikant Thakkar
V/s
Rainbow Industrial Park Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..05/10/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

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

CP (IB) No. 729/NCLT/AHM/2019

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

Mr. Shashikant Thakar

Shivam A-11-12, Shyamnagar Society

Nr. Vishramnagar

Memnagar

Ahmedabad 380 054

..... **Operational Creditor**

Versus

Rainbow Industrial Park Pvt. Ltd.

801, Avdhesh House

Opp. Gurunanak Gurudwara

S.G. Highway

Thaltej

Ahmedabad 380 054

Gujarat State

.....

Corporate Debtor

Order Reserved on : 04.10.2021

Order Pronounced on: 05.10.2021

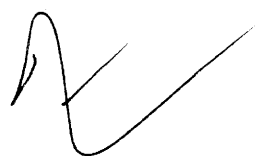
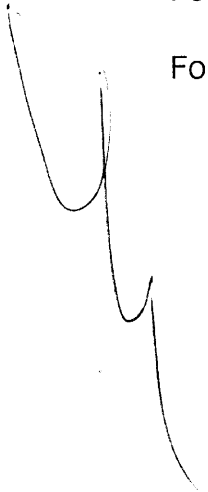
Coram: MADAN B. GOSAVI, MEMBER (J)

VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

For Operational Creditor : Learned counsel Mr. Arjun Padhiyar

For Corporate Debtor : None



ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed by Operational Creditor, namely, **Mr. Shashikant Thakar** under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor, namely, **Rainbow Industrial Park Pvt. Ltd.** The amount of debt has been claimed at **Rs. 1,30,000/- (Rupees one lac thirty thousand only)**.
2. The facts, in brief, are that the Operational Creditor engaged in providing consultancy services like GST consultancy, tax consultancy, secretarial matters and legal consultancy had provided consultancy services to the corporate debtor for the accounting year 2018-19 against which the operational creditor had raised invoice dated 02.01.2019. The applicant has further stated that despite repeated reminders the respondent company has not cleared the outstanding debts, therefore, this petition.
3. On perusal of record it is found that, in support of its claim, the operational creditor has placed on record copy of documents like invoice, demand notice under Section 8 (1) of the IB Code, affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and other relevant documents.
4. The corporate debtor has not filed any reply despite giving number of opportunities. During the course of final hearing also none remained present on behalf of the corporate debtor. It is also found that demand notice served by the operational creditor has not been

replied by the corporate debtor. The operational creditor has filed proof of service of demand notice.

5. On perusal of the record it is also found that the instant petition filed by the applicant is well within limitation and there is no pre-existing dispute regarding the operational debt from the side of the corporate debtor. Further, such debt is due and payable and a default has occurred in repayment thereof.
6. In view of the above discussion, we admit this application and order as under:

ORDER

1. The application is admitted and the moratorium 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.*

2. 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.

3. The Operational Creditor has filed affidavit seeking replacement of the Interim Resolution Professional (IRP) originally proposed and replacing it with one Mr. Kinjalkumar Madhubhai Chaudhary. We, therefore, hereby appoint Mr. Kinjalkumar Madhubhai Chaudhary, **having Registration No: IBBI/ IPA-001/IP-P-02196/2020-2021/13463** and having office at 9-B, Vardan Complex, Nr. Vimal House, Lakhudi Circle, Navrangpuraa, Ahmedabad to act as an IRP under Section 13(1) (c) of the Code. The IRP is directed to file request/applications which he is required to file with the Adjudicating Authority as per provisions of IBC, 2016 read with CIRP Regulations, 2016.
4. 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.
5. 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.

6. 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.
 7. 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.
 8. 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.
7. Accordingly, CP (IB) No. 729/9/NCLT/AHM/2019 is allowed.
 8. List the matter on 22.11.2021.


VIRENDRA KUMAR GUPTA
MEMBER (TECHNICAL)


MADAN B. GOSAVI
MEMBER (JUDICIAL)