

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 3944/IBC/MB/2018

Under Section 9 of the Insolvency and
Bankruptcy Code, 2016 read with
Rule 6 of the Insolvency and
Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

AMYLO DEX PRIVATE LIMITED

Having registered office at: 302, S.V.
Sumithra Apartments, Sumithra
Nagar, Kukatpally Dyderabad-
500072, Telangana

.....Operational Creditor

Vs

**ATHARVA CORRUGATIONS PVT
LTD**

(CIN: U74900PN2013PTC146924)

Registered office at: Ranjangaon
Ganpati, H. No 1316 Tal Shirur
Pune- 412210 Maharashtra

.....Corporate Debtor

Order delivered on: 20.07.2022

Coram:

Hon'ble H.V. Subba Rao, Member (Judicial)
Hon'ble Anuradha Sanjay Bhatia, Member (Technical)

For the Applicant: Ms. Anushka Jadhav

For the Respondent: None appeared.



Per: Shri H.V. Subba Rao, Member (Judicial)

1. The above Company Petition is filed by M/s. Amylo Dex Private Limited hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Atharva Corrugations Private Limited called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 8,03,250/-.

BRIEF FACTS OF THE CASE

2. The Operational Creditor manufacturer and supplier of various adhesive starch powder products. The Corporate Debtor approached the Operational Creditor and requested it to supply products namely Corrugation Powder S/D (Modified Starch) (herein referred to as the "said Products"). Pursuant to the negotiations that took place between the Operational Creditor and the Corporate Debtor, time and again the Corporate Debtor placed orders (hereinafter referred to as the "said Purchase Orders") on the Operational Creditor for manufacturing and supplying of said Products.
3. The Operational Creditor further submits that the Operational Creditor manufactured, supplied and delivered the said Products to the Corporate Debtor. The Corporate Debtor raised no issues with respect to defects or returns of the Products delivered to it.
4. The Operational Creditor raised Invoices, specifically invoices number 414/16-17, 18/17-18, 47/17-18 which were delivered along with the said Products.
5. The operational creditor further submits that a credit period of 30 days was given to the Corporate Debtor to repay the Invoice amount.



However, the Corporate Debtor even after receiving the Products and their respective Invoices failed to repay the same within the due period. After rigorous follow up the Corporate Debtor made a payment of Rs.6,42,600/- on 9th May 2017 which was adjusted by the Operational Creditor against full payment of invoice number 414/16-17 and part payment of Rs.3,53,430/- towards the invoice number 18/17-18.

FINDINGS

6. Heard the arguments of the counsel appearing for the Operational Creditor. The Corporate Debtor remained absent despite service of notice and accordingly he was set ex-parte vide order dated 29.03.2022.
7. Ld. Counsel appearing for the Operational Creditor invited the attention of this Bench to the various purchase orders and E-Way Bills annexed to the Company Petition basing on which the above Company Petition was filed. The counsel appearing for the Operational Creditor also invited the attention of this Bench to the demand notice dated 10.05.2018 annexed at page no.16 of the Petition and the postal receipt and the track report issued by the Postal Authority in support of proof of delivery of demand notice on the Corporate Debtor.
8. After hearing the submission and upon perusing the material available on record, this Bench feels that the Petitioner has successfully demonstrated the existence of "debt and default" committed by the Corporate Debtor in this case. Since the Corporate Debtor remained ex-parte the claim of Operational Creditor remained unchallenged.



9. Since the purchase orders are pertaining to the period of 2017 the above Company Petition being filed on 15.10.2018 is well within limitation. Thus, the Petitioner has satisfied all the necessary legal requirements for admission of the above Company Petition and the above Company Petition deserves to be admitted.
10. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 3944(MB)/2018 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Atharva Corrugations Private Limited.
- b. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Ashwin Bhavanji Shah (ashwin@caashwinshah.com)**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P02648/2021-2022/14054 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by COC.
- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.



- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.


Sd/-

ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)

Certified True Copy
Copy Issued "free of cost"
On 10/08/2022.


Joint Registrar
National Company Law Tribunal Mumbai Bench

