

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II
CHENNAI**

IBA/1302/2019
*filed under Section 9 r/w Rule 6 of
Insolvency & Bankruptcy Code, 2016*

In the matter of **M/s. Azimuth Software India Private Limited**

Mrs. B. Padmavathi,
Proprietor,

M/s. Padmavathi Tea and Food Supplier
No.8A, New Street,
Pazhavakaran Chavadi, Reddiarpalayam,
Puducherry – 605 010.

..... Applicant/Operational Creditor

-Vs-

M/s. Azimuth Software India Private Limited

No.67 & 68. Sringeri Sivaganga Nagar Extension,
Sri Giri Madam Street, Anna Nagar,
Puducherry – 605 005.

..... Respondent/Corporate Debtor

Order Pronounced on 04/03/2021

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Applicant : *Ms. R.J. Radhika, Advocate*

For the Respondent : *Ms. Preethi Arasu, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Under consideration is the application filed by the Operational Creditor i.e., Mrs. B. Padmavathi, Proprietor of M/s. Padmavathi Tea and Food Supplier under Section 9 of the Insolvency and Bankruptcy Code,



2016 (“IBC, 2016”) for initiation of Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor i.e., M/s. Azimuth Software India Private Limited. The Corporate Debtor registered office is at No.67 & 68. Sringeri Sivaganga Nagar Extension, Sri Gira Madam Street, Anna Nagar, Puducherry – 605 005. Hence, this Adjudicating Authority has jurisdiction over this application.

2. Invoices claimed by the Applicant are enclosed in Page 61 of the application for the period from 01.03.2018 to 31.03.2018. This application was filed on 31.10.2019. Hence this application is well within the period of limitation.

3. The Applicant Counsel states that the Applicant supplied tea and snacks to the Respondent company. The invoices are enclosed from Page No.61 to 84 of the application.

4. By letter dated 31.07.2019 enclosed at Page No.85, the Corporate Debtor has acknowledged the balance amount due and payable i.e., a sum of Rs.1,30,121/-, since the Corporate Debtor failed to repay the amount towards various invoices raised by the Applicant herein, this application is filed for initiation of CIRP against the Corporate Debtor.



5. In response to this application, the Corporate Debtor has filed its reply. The reply affidavit is executed by one of the Directors of the Corporate Debtor namely Ms. Virginie Marie stated in Paragraph No.3 of the said affidavit as follows :

“3. Without prejudice to any of the allegations made in the above application and without traversing into the merits of the case, I submit that due to general recession in the world economy since last the few years, our business which was also not an exception had also suffered huge loss due to delay in receivables and our sales also dropped drastically over the said period. In addition to the Covid-19 pandemic our situation became worse from bad and our net worth completely eroded. We are unable to pay even salaries to our employees and had to terminate almost all the employees and find it difficult to make both ends meet. In the above circumstances our business had completely eroded and we are not carrying on any business and is unable to honour any outstanding payments including that of the Operational Creditors”.

6. This application was filed on 31.10.2019. During that period, this Adjudicating Authority had jurisdiction to entertain the application where the debt is due and payable for the amount of One Lakh and above. Subsequently, by amendment dated 24.03.2020 jurisdiction of this Adjudicating Authority was raised from Rupees One Lakh to Rupees One Crore. Since this application was filed prior to the amendment, this Adjudicating Authority has powers to adjudicate this application.



7. Hence the amount due is admitted by the Corporate Debtor. The Corporate Debtor has suggested Mr. K. Suresh as the proposed IRP. The IRP has filed Form 2, sub-rule (1) of Rule 9.

8. Hence Mr. K. Suresh [Registration No. IBBI/IPA-002/IP-N00703/2018-2019/12322] is hereby appointed as IRP. Since the amount is admitted by the Corporate Debtor and also as a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 (SARFAESI Act);

- (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.
- (II) 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.
- (III) 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.
- (IV) That the order of moratorium shall have effect from 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.
- (V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.
- (VI) That this Bench hereby appoints **Mr. K. Suresh** as **Interim Resolution Professional** (Reg. No. IBBI/IPA-002/IP-N00703/2018-2019/12322), **E-mail: suresh@lawdharma.com**, **Mobile No: 9994911117** with his consent to carry out the functions as mentioned under The Insolvency & Bankruptcy Code.



9. **The Registry** is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

10. For the reasons stated above, IBA /1302/2019 stands **admitted**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

sr