

**THE NATIONAL COMPANY LAW TRIBUNAL  
“CHANDIGARH BENCH, CHANDIGARH”  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)  
(Arguments through web-based video conferencing platform)**

**CP (IB) No.173/Chd/Pb/2020**

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

**In the matter of:-**

**Aman Bajaj, Proprietor of M/s Jagir Chand Sham Sundar,  
having its office at #110, New Grain Market,  
Jallabad (W)-152024.**

...Applicant-Operational Creditor

**Vs.**

**M/s Ram Lal Aneja Food Private Limited,  
having its registered office at Building No.32,  
New Grain Market, Jalalabad, Punjab-152024**

...Respondent-Corporate Debtor

**Judgement delivered on: 13 .01.2023**

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)  
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Petitioner-  
Operational Creditor : Mr. Vaibhav Sahni, Advocate

For the Respondent-  
Corporate Debtor : Mr. Vishav Bharti Gupta, Advocate

**Per: Harnam Singh Thakur, Member (Judicial)**

**JUDGMENT**

The present petition is filed, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC' / 'Code'), by Aman Bajaj being proprietor of M/s Jagdish Chand Sham Sunder (for brevity 'Operational

Creditor’/’Petitioner’), with a prayer to initiate Corporate Insolvency Resolution Process (CIRP) in case of M/s Ram Lal Aneja Food Private Limited (for brevity ‘Corporate Debtor’/’Respondent’).

2. The Corporate Debtor, namely, M/s Ram Lal Aneja Food Private Limited, is a Company incorporated on 05.03.2010 under the provisions of the Companies Act, 1956 with CIN No. U15400PB2010PTC033665 with its registered office at Shop No.32, New Grain Market, Jalalabad (west), Punjab. Hence, the territorial jurisdiction lies with this Adjudicating Authority. Copy of the master data of the corporate debtor is attached with the main petition and marked as Annexure A-2 of the petition.

3. The facts of the case, briefly, as stated in the petition are that the petitioner was in the business of a commission agent who was supplying paddy at the issuance of order by the corporate debtor. The operational creditor was supplying the material and was raising various invoices for the same. The last invoice raised towards the Corporate Debtor was on 09.11.2018. As per the terms of payment reproduced in the invoices, the interest charged would be 24% p.a. The corporate debtor made various payments but the last payment was received on 20.09.2019. The Corporate Debtor has confirmed the balance of Rs. 8,75,105/- by letter dated 15.10.2019 and also gave assurance to clear the dues within one month. However, no payment was received by the Corporate Debtor.

4. It is submitted by the petitioner in Form 5, Part IV that amount claimed to be in default is Rs. 8,75,105.65/- (Rupees Eight Lakhs Seventy-Five Thousand One Hundred and Five and Sixty-Five Paise Only). The default occurred on 20.09.2019 as no payment has been received by the

Operational Creditor thereafter from the Corporate Debtor. The computation of the amount pending along with interest is attached as Annexure A-7 of the petition. The letter dated 15.10.2019 acknowledging the debt of the Operational Creditor and copy of the ledger account of the Corporate Debtor maintained by the Operational Creditor is attached as Annexure A4 and A5, respectively. The copy of the invoices raised by the Operational Creditor for the supply of the goods to the Corporate Debtor is attached as Annexure A3 of the petition.

5. A demand notice in Form 3 is stated to be issued by the operational creditor on 17.11.2019 and the same has been delivered to the corporate debtor by registered post. However, no response has been received thereof.

6. Accordingly, vide order dated 15.12.2020 notice of this petition has been issued to the corporate debtor to show cause as to why this petition be not admitted. The corporate debtor has filed reply by Diary No.00316/01 dated 12.03.2021, wherein it is stated that the Corporate Debtor has been experiencing a severe financial crisis due to the losses incurred, therefore, the Corporate Debtor could not make the payment of the outstanding dues of the Operational Creditor. The Corporate Debtor does not have any objection if the present petition is admitted.

7. We have heard the learned counsel for the petitioner and corporate debtor and have perused the records.

8. The first issue for consideration is whether the demand notice in Form 3 dated 17.11.2019 was properly served. The demand notice was served through a registered post but the same has not been replied. The

original postal receipt along with the tracking report is attached with the demand notice which is found at Annexure A-6 of the petition. The petitioner has furnished an affidavit deposing that the Operational Creditor has not received any reply to the demand notice dated 17.11.2019 till date which is attached at Pages No. 25 to 27 of the petition.

12. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. An affidavit under Section 9(3) (b) has been furnished by operational creditor stating that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt. It is submitted by learned counsel for the corporate debtor that the Corporate Debtor has been experiencing a severe financial crisis due to the losses incurred, therefore, the Corporate Debtor could not make the payment of the outstanding dues of the Operational Creditor. The Corporate Debtor does not have any objection if the present petition is admitted.

13. The other issue for consideration is whether this application is filed within limitation. A demand notice issued dated 17.11.2019 in Form 3 attached as (Annexure A6) was duly served on the corporate debtor. The corporate debtor made various payments but the last payment was received on 20.09.2019. The Corporate Debtor has also confirmed the balance of Rs. 8,75,105/- by letter dated 15.10.2019 (Annexure A-4). Therefore, the period of limitation either taken from the last payment i.e. 20.09.2019 or from the acknowledgement of debt i.e. 15.10.2019. The present application is filed on 18.02.2020. Therefore, this Adjudicating Authority finds that this application is filed within limitation.

14. We have gone through the contents of the application filed in Form 5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of Rs. 8,75,105.65/- (Rupees Eight Lakhs Seventy-Five Thousand One Hundred and Five and Sixty-Five Paisa Only). The computation of the amount pending along with interest is attached as Annexure A-7 of the petition. The letter dated 15.10.2019 acknowledging the debt of the Operational Creditor and a copy of the ledger account of the Corporate Debtor maintained by the Operational Creditor is attached as Annexure A4 and A5, respectively. The copy of the invoices raised by the Operational Creditor for the supply of the goods to the Corporate Debtor is attached as Annexure A3 of the petition. Accordingly, the petitioner proved the debt and the default, which is more than Rupees one lakh (prior to the amendment in threshold limit of one crore vide notification No. S.O.1205(E) dated 24.03.2020) by the respondent-corporate debtor.

15. It is noted that the corporate debtor has failed to pay the aforesaid amount due as mentioned in the statutory notice till date. Thus, the conditions under Section 9 of the Code stand satisfied. It is evident that from the aforesaid discussed facts that the liability of the corporate debtor is undisputed. Accordingly, the petitioner proved the debt and the default, which is above the threshold limit.

16. In the present petition all the aforesaid requirements have been satisfied. It is seen that the petition preferred by the petitioner is complete in all respects. The material on record clearly goes to show that the respondent committed a default in payment of the claimed operational debt even after

the demand made by the petitioner. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIR Process in the case of the Corporate Debtor, **M/s Ram Lal Aneja Food Private Limited** and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

17. The petitioner has filed an affidavit by Diary no. 00316/2 dated 07.12.2022 placing on record the consent of the proposed Resolution Professional. Form No.2 dated 28.11.2022 along with the certificate of IBBI issued in favour of the proposed Interim Resolution Professional i.e. Mr Akhil Ahuja, is attached at Annexure-A of Diary no. 00316/2 dated 07.12.2022. The Law Research Associate of this Tribunal has checked the credentials of Mr Akhil Ahuja and there is nothing adverse against him. In view of the above, we appoint Mr Akhil Ahuja, Registration No. IBBI/IPA-001/IP-P-02072/2020-2021/13213 , E-mail: caakhilahuja@gmail.com, Mobile No. +91-9911331599, the Interim Resolution Professional with the following directions:-

- i.) The term of appointment of Mr. Akhil Ahuja Bhasin shall be in accordance with the provisions of Section 16(5) of the Code; subject to his written consent to be filed within 7 days of this order;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are

vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;

iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;

iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;

v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and

extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

vi.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The

concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

vii.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee to this Tribunal on or before the

expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of the constitution of the Committee; and

ix.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

18. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Securitization and Reconstruction of Operational 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.

19. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, if any, shall not be terminated or suspended or interrupted during the moratorium period. The provisions of

Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

20. The order of moratorium shall have effect from the date of this order till 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 the corporate debtor under Section 33 as the case may be.

21. The petitioner is directed to deposit an amount of ₹70,000/- (Rupees One lakh Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

22. A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

23. This petition is accordingly allowed and admitted.

-sd-13.01.2023  
(Subrata Kumar Dash)  
Member (Technical)

-sd-13.01.2023  
(Harnam Singh Thakur)  
Member (Judicial)

January 13, 2023  
SA/SM