

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**CP (IB) No.3071/MB/C-IV/2019**

Under section 9 of the Insolvency &  
Bankruptcy Code, 2016

*In the matter of*

**Research Dye Chem Private Limited**

**[CIN: U24114MH1994PTC077495]**

...Operational Creditor

Versus

**Sangeeta Tex Dyes Private Limited**

**[CIN: U24114MH1994PTC077495]**

... Corporate Debtor

**Order pronounced on : 29.01.2020**

***Coram:***

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)  
Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Operational Creditor : Ms Shilpa Kapil, Advocate  
For the Corporate Debtor : No representation

**ORDER**

*Per: Rajasekhar V.K., Member (Judicial)*

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 ("**IBC**") by Research Dye Chem Private Limited [CIN: U24114MH1994PTC077495] ("**the Operational Creditor**"), a company within the meaning of section 2(20) of the Companies Act, 2013 and represented by its Director, Mr Suresh Murarka, on the basis of a Board Resolution dated 27.06.2019 seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against **Sangeeta Tex Dyes Private Limited ("the Corporate Debtor")**.
2. The Corporate Debtor is a private company limited by shares and incorporated on 30.10.2009 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Mumbai. Its CIN is U17120MH2009PTC196784. Its registered office is at Swami Samarth Compound, Next to Reebok Showroom, Nasik Highway Road, Near Majiwada Flyover, Thane (West) 400 601, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 19.08.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs.55,10,292.00 (Rupees fifty-

five lakh ten thousand two hundred and ninety-two only) as principal and Rs.4,77,066.00 (Rupees four lakh seventy-seven thousand and sixty-six only) as interest as on 30.06.2019, which is the date of default.

4. The case of the Operational Creditor is as follows: -

- (a) The Corporate Debtor approached the Operational Creditor for supply for Safflon D. Dispersnol-WS and other chemicals on various occasions (para 2 at page 4 of the Petition);
- (b) As per usual business practice, several invoices were raised by the Operational Creditor, which remained unpaid. Payment was to be made within 90 days from the date of each invoice (para 3 at page 4-5 of the Petition);
- (c) The Operational Creditor has also paid VAT and GST on the sale of the products. The Corporate Debtor has taken credit of the amounts in their VAT and GST returns (para 4 at page 5 of the Petition);
- (d) The Operational Creditor has, from time to time, brought to the notice of the Corporate Debtor that the amounts remained outstanding. However, there was no payment made in this regard (para 5 at page 5 of the Petition);

- (e) The Corporate Debtor's persistent default in making payment to the Operational Creditor has raised a bona fide apprehension about the Corporate Debtor's ability to discharge its debts and its commercial solvency. (para 8 at page 6 of the Petition).
5. Invoices have been placed on record as **Exhibit 'A'** at pp.11-147. The invoices provide for interest in case of delayed payments, to be charged at the rate of 24% per annum. The total debt due and payable to the Operational Creditor is Rs.59,87,358.00 (Rupees fifty-nine lakh eighty-seven thousand three hundred and fifty-eight only), as mentioned at pages 168-170 of the Petition.
  6. The Operational Creditor had served a Demand Notice in Form 3 dated 03.07.2019 to the Corporate Debtor (**Exhibit 'C'**, pp.159-163) in terms of section 8 of the IBC. The Corporate Debtor has not replied to the Demand Notice. The Demand Notice has been duly served on the Corporate Debtor by Registered Post on 13.07.2019 as per Postal Acknowledgement Card placed at pp.166-167 of the Petition.
  7. There was no reply to the Demand Notice. Affidavit regarding 'No Dispute' as envisaged under section 9(3)(b) of the IBC has been placed on record at pp.171-172 of the Petition.

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8. A copy of the Petition was served on the Corporate Debtor by Registered Post on 17.08.2019. Court Notice dated 06.09.2019 has also been duly served on the Corporate Debtor by Registered Post on 16.09.2019. Necessary affidavit of service filed by the Operational Creditor has been placed on record.
9. The Corporate Debtor has not filed any reply to the petition.
10. We have heard the arguments of the Learned Advocate for the Operational Creditor and perused the records.
11. At the hearing held on 16.10.2019, Mr Jatinder Mehta, Director of the Corporate Debtor was present in person and admitted the liability. He also submitted that the factory of the Corporate Debtor has been closed down from 24.06.2019. The matter was therefore reserved for orders.
12. However, when the order was being dictated, it was noticed that the Operational Creditor had not placed on record the requisite Board Resolution for initiation of the present proceedings against the Corporate Debtor. Therefore, the matter was put back on the board for clarifications. On that date, there was no representation on behalf of the Corporate Debtor. The matter was adjourned to 26.11.2019 for producing copy of the Board Resolution.
13. On 26.11.2019, the learned Counsel for the Operational Creditor produced a copy of the Board Resolution dated 27.06.2019, which

was taken on record. At the hearing, Mr Ganesh Krishna Patil, the other director of the Corporate Debtor, appeared in person and sought some time to work out a settlement with the Operational Creditor. At request and in the interest of settlement, time was granted and the matter was posted to 16.12.2019.

14. On 16.12.2019, the learned Counsel for the Operational Creditor was present. Mr Ganesh Krishna Patil, director of the Corporate Debtor, was present and once again sought time to work out a settlement. The request was accepted and the matter was adjourned to 20.01.2020 in the interest of settlement. It was made clear that in case settlement does not go through by then, the matter will be heard and disposed of on merits.
15. On 20.01.2020, the learned Counsel for the Operational Creditor submitted that the proposed Interim Resolution Professional (IRP) was not in a position to accept the assignment in case CIRP was initiated against the Corporate Debtor. She, therefore, sought time to file a memo praying for appointment of an IRP at the discretion of the Adjudicating Authority. At request, the matter was adjourned to the next day, i.e., 21.01.2019.
16. On 21.01.2019, learned Counsel for the Operational Creditor submitted the memo requesting the court to appoint an IRP as per its discretion, which was taken on record. On that date, Mr Ganesh Krishna Patil, director of the Corporate Debtor was

present. He, however, submitted that the Corporate Debtor was not in a position to make payment.

17. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
18. It is, accordingly, hereby ordered as follows: -
  - (a) The petition bearing **CP(IB) No.3071/MB/C-IV/2019** filed by **Research Dye Chem Private Limited**, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Sangeeta Tex Dyes Private Limited [CIN: 400 601]**, the Corporate Debtor, is **admitted**.
  - (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:

- (i) 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;
  - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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 (Sarfaesi) Act, 2002;
  - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium,-
- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

- (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) **Mr Suresh Chandra Jena**, Registration No.Reg. No. IBBI/IPA-001/IP-P-01540/2019-20/12473, having address at No.501, Ruby Isle, Royal Palms, Aarey Milk Colony, Goregaon (East), Mumbai, Maharashtra 400065 [email: **suresh.jena58@gmail.com**], is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. He is directed to file his consent in Form 2 with the Registry immediately. The fee payable to IRP or, as the case may be, the RP shall be

compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The IRP/RP shall submit periodical reports to this Adjudicating Authority indicating the progress of the CIRP.
- (i) The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (j) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

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- (k) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

**RAVIKUMAR DURAISAMY**  
**Member (Technical)**

29.01.2020

Sd/-

**RAJASEKHAR V.K.**  
**Member (Judicial)**