

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Video Conference)

**CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)
CORAM: SHRI SATYA RANJAN PRASAD, HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 21.10.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition (IB) No.762/2019
NAME OF THE COMPANY	Reaselack Polymers Pvt. Ltd.
NAME OF THE PETITIONER(S)	Shivalik Polymers Pvt. Ltd.
NAME OF THE RESPONDENT(S)	Reaselack Polymers Pvt. Ltd.
UNDER SECTION	9 of IBC

ORDER

Order pronounced and recorded vide separate sheets. In the result, the Corporate Debtor is admitted for CIR Process.

-edt

MEMBER (T)

vijayalakshmi

-edt

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH -II, HYDERABAD**

**CP (IB) No.762 /9/HDB/2019
U/s. 9 of IB Code, 2016**

In the matter of Reaselack Polymer Pvt Ltd

M/s. Shivalik Industries,
Block No.205, 2nd Floor,
Sharda Complex, Balaji Nagar,
Above Canara Bank, Opp. St. Xavier School,
Hingna Road,
Nagpur – 440 016.

.... Applicant /
Operational Creditor

Vs

M/s Reaselack Polymer Pvt. Ltd.,
5-4-57, First Floor,
Shri Krishna Govind Complex, Distillery Road,
Secunderabad,
Telangana – 500 003.

....Respondent/
Corporate Debtor

Date of order: 20.10.2022

CORAM:

Dr. Venkata Ramakrishna Badarinath Nandula, Member (Judicial)

Mr. Satya Ranjan Prasad, Member (Technical)

Counsels present:

For the Operational Creditor : Mr. Raghav N. Tiwari and
Mr. Radhe Agarwal, Advocates.

For the Corporate Debtor : None

[PER: BENCH]

ORDER

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1. Under consideration is an Application filed Under Section 9 of the Insolvency and Bankruptcy Code, 2016 by M/s. Shivalik Industries against M/s Reaselack Polymer Pvt. Ltd, *inter-alia* seeking to admit the application and refer the Corporate Debtor to Corporate Insolvency Resolution Process and appoint Interim Resolution Professional.
2. Brief facts of the case as stated by the Applicant are as under:-
 - a. The Applicant, Mr. Sunil Garg is Proprietor of Shivalik Industries, having its Registered Office at: Block No.205, 2nd Floor, Sharda Complex, Balaji Nagar, Above Canara Bank, Opp. St. Xavier School, Hingna Road, Nagpur – 440 016. That, Operational Creditor Company is proprietary firm. That the Corporate Debtor is a Private Limited Company incorporated under the Companies Act, 1956 as amended up to date, addressed at 5-4-57 First Floor, Shri Krishna Govind Complex, Distillery Road, Secunderabad, Telangana – 500 003.
 - b. That the Directors / Authorized persons of Corporate Debtor approached Applicant for purchasing goods which are more specifically mentioned in the Tax/GST Invoices annexed with the main petition and placed purchase orders at various instances and accordingly Applicant sold the goods.
 - c. That the goods were very well received by Corporate Debtor and there is no dispute or demure in respect of the same. That Corporate Debtor did not make the payment for goods that were sold by Applicant even after elapsing of substantial period of time and as such, Applicant verbally demanded the outstanding payment at various instances to the total sum of Rs.7,72,021/- including interest amount as accrued for delayed payment from the Corporate Debtor and its Authorized persons but Corporate Debtor did not paid any heed to the requests made by Operational Creditor.
 - d. That the Applicant has served a demand notice U/s. 8 of IBC on Corporate Debtor on 03.09.2019. The said notice was duly served upon Corporate Debtors in spite of which, Corporate Debtor has not made the payment. In

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spite of repeated requests made by the Operational Creditor, the Corporate Debtor failed to make payments.

- e. That the Corporate Debtor is very well in knowledge of the outstanding debt, but in spite of due and proper service of Demand Notice did not paid the outstanding amount with an intention to deceive and cheat the Operational Creditor. The Operational Creditor gave ample of opportunities to Corporate Debtor to clear the outstanding liability.
 - f. That Operational Creditor has filed all relevant documents along with this Petition on which the Operational Creditor rely in respect of the Unpaid Operational Debt.
3. That the said matter was filed on 22.11.2019 and that during the hearing held on 14.10.2022, it was recorded that the Operational Creditor has reported that the settlement is under way. However, no settlement has been reported so far as the learned counsel for the Operational Creditor reported ready and the matter was adjourned to 17.10.2022 for hearing and disposal with a condition that no further adjournment would be allowed to either side. That even during the hearing held on 17.10.2022, there was no representation on the part of the Corporate Debtor.
 4. Heard the learned counsel for the Operational Creditor and perused the documents produced on record. Nevertheless we are deprived of the benefit of representation on behalf of the Corporate Debtor and assistance on their behalf either by any of oral arguments or by written submissions towards effective adjudication of the matter. Thus, we are left with no option but to adjudicate the matter merely based on the documents produced on record by the Operational Creditor.
 5. It is the case of the Operational Creditor that it has supplied various goods to the Corporate Debtor herein and as such an amount of Rs.7,72,021/- is due and payable by the Corporate Debtor.
 6. This Adjudicating Authority is satisfied that the Operational Creditor has proved its case by placing evidence that there exists an operational debt and

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- default has occurred for which the Corporate Debtor was liable to pay. There has neither been any reply to Statutory Notice u/s 8 of the IBC, 2016 on behalf of the Corporate Debtor nor the contentions raised by the Applicant in the instant application have been denied by way of an affidavit by the Corporate Debtor. Further, the Operational Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the Petitioner/Operational Creditor, this Adjudicating Authority is inclined to admit the instant Application.
7. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders commencement of the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor herein, which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order.
 9. The Operational Creditor herein has not proposed any name of the Interim Resolution Professional, thus, this Adjudicating Authority hereby appoints Mr. K. Vatsa Kumar, bearing IBBI Registration No. IBBI/IPA-002/IP-N00922/2019-2020/12980 and email: kvkumar.ip@gmail.com as the IRP from the list as proposed by the IBBI. He is directed to file his written consent and Authorization for Assignment within three days from date of this order.
 10. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
 11. We direct the Operational Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of IRP, which shall be ratified and reimbursed later on by the CoC.


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12. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP in terms of Section 14 of the IB Code, 2016.

It is hereby ordered to prohibit all of the following 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 or 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 rights 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 Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.*
- e. *Suspension or termination of any license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*

13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority

14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the

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management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

15. The Petitioner/Operational Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
17. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
18. Accordingly, CP (IB) No.150/9/HDB/2021 is hereby admitted.

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Satya Ranjan Prasad
Member Technical

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Dr.Venkata Ramakrishna Badarinath Nandula
Member Judicial