IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (IB) No. 1400/KB/2019

In the matter of:
Under section 9 of the Insolvency and Bankruptcy Code, 2016.

In the matter of:
Dhanvridhi Polyfabs Private Limited (CIN U51909WB2012PTC173513), a Company incorporated under the Companies Act, 1956, having its registered office at 113/1b, Chittaranjan Avenue, 5th Floor, Room No. – 5B, Kolkata 700073.

... Operational Creditor

-Versus-

Leonard Exports Private Limited (CIN U74900WB2009PTC133430), a Company incorporated under the Companies Act, 1956, having its registered office at 2/7, Sarat Bose Road, Vasundhara Building 6th Floor, Space – IV, Kolkata 700020

... Corporate Debtor

Date of Hearing: 11.05.2022
Date of pronouncing the order: 16.06.2022

Coram:
Shri Rohit Kapoor, Member (Judicial)
Shri Harish Chander Suri, Member (Technical)

Appearances (via video conferencing):

For the Operational Creditor **:** Mr. Jay Bhattacharyya, Advocate

ORDER

Per : Harish Chander Suri, Member (Technical):

1. This Court convened *via* video conferencing.
2. This is a Company Petition filed under section 9 of the Insolvency and Bankruptcy Code, 2016 ("***the Code***") by Mr. Raj Kumar Choudhary, Assitant Finance Manager, Dhanvridhi Polyfabs Private Limited ***('Operational Creditor')*** seeking to initiate Corporate Insolvency Resolution Process ("***CIRP***") against Leonard Exports Private Limited ("***Corporate Debtor***").
3. The present petition was filed on 21.08.2019, before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs.40,70,879/- (Rupees Forty Lakh Seventy Thousand Eight Hundred Seventy Nine only) with Operational Debt of Rs.27,13,407/- (Rupees Twenty Seven Lakh Thirteen Thousand Four Hundred Seven only) and interest of Rs.13,57,472/- (Rupees Thirteen Lakh Fifty Seven Thousand Four Hundred Seventy Two only). The Operational Creditor has issued different invoices falling due on different dates.
4. As pert Part-II of the form the Authorized Share Capital of the Corporate Debtor is Rs.2500000/- (Rupees Twenty Five Lakh only) and the paid up share capital is Rs.100000/- (Rupees One Lakh only).
5. The Operational Creditor was engaged by the Corporate Debtor for providing services. In the course of service, several invoices dated 24.09.2016, 20.10.2016, and 03.11.2016 were raised by the Operational Creditor. The Operational Creditor also sent notice in FORM 4 (without invoices) to the Corporate Debtor asking for clearance of the outstanding dues. The same was delivered on 06.06.2019.
6. Heard the Ld. Counsel appearing for the Operational Creditor and have perused the records and the concerned documents annexed to the Petition. However, none appeared on behalf of the Corporate Debtor. The matter was directed to be proceeded as ex-parte on 09 December, 2021.
7. It is pertinent to mention that on receiving a statutory notice in FORM 4, the Corporate Debtor neither disputed the services provided by the Operational

Creditor nor denied the fact that there are any outstanding dues. Further, on various occasions, on the assurance of the Corporate Debtor, the Ld. Counsel appearing for the Operational Creditor submitted that the matter was likely to be settled but the same did not happen.

8. In view of the above circumstances, the present petition made by the Operational Creditor is complete in all respect as required by law. The petition establishes that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under section 4(1) of the Code, i.e., Rupees one lakh, at the relevant time, and since there is no pre-existing dispute, there is no defence available to the Corporate Debtor in these circumstances.
9. It is, accordingly, hereby ordered as follows:-
   a. The application bearing ***C.P. (IB) No. 1400/KB/2019*** filed by Dhanvridhi Polyfabs Private Limited, the Operational Creditor, under section 9 of the Code read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against Leonard Exports Private Limited, the Corporate Debtor, is ***admitted***.
   b. There shall be a moratorium under section 14 of the IBC.
   c. 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.
   d. Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
   e. ***Mr. Anal Basu,*** registration number ***IBBI/IPA-001/IP-P-02436/2021-2022/13742,*** email: ***basu_anal@rediffmail.com,*** is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid

Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. 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 Code.

f. 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 one week from the date of receipt of this Order, in default of which coercive steps will follow.

g. The IRP/RP shall submit to this Adjudicating Authority progress reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

h. The Operational Creditor shall deposit a sum of ***Rs.2,00,000/-*** (Rupees Two 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).

i. In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

j. Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means 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.

10. ***C.P. (IB) No. 1400/KB/2019*** to come up on **04.08.2022** for filing the progress report.
11. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapur.
Member (Judicial)

The Order is pronounced on 16th day of June, 2022

SA, LRA