

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 142
CP(IB) 135 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Garden Silk Mills Ltd

V/s

Rashmi Yarns Ltd

.....Applicant

.....Respondent

Order delivered on ..04/10/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :

For the IRP/RP :

For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) No. 135/NCLT/AHM/2020

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

Garden Silk Mills Limited

First Floor, Tulsikrupa Arcade
Near Aai Mata Chowk
Puna Kumbharia Road
Dumbhal
Surat 395 010

..... **Operational Creditor**

Versus

Rashmi Yarns Limited

405, Metro Tower
Ring Road,
Surat 395 002
Gujarat State

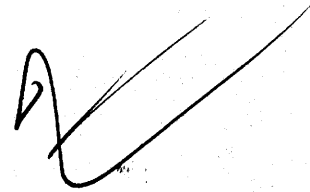
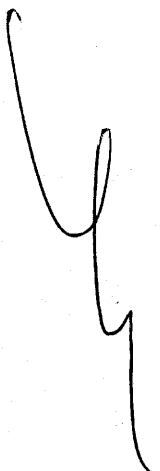
..... **Corporate Debtor**

Order Reserved on : 28.09.2021
Order Pronounced on: 04.10.2021

**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

For Operational Creditor : Learned counsel Mr. Kunal Vaishnav
For Corporate Debtor : None



ORDER**[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]**

1. This application has been filed by Operational Creditor, namely, **Garden Silk Mills Ltd.** under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor, namely, **Rashmi Yarns Limited**. The amount of debt has been claimed at **Rs. 37,38,676.59 (Rupees thirty-seven lacs thirty-eight thousand six hundred seventy-six and paise fifty-nine only)** which include interest of Rs. 18,60,171.59.
2. The facts, in brief, are that the Operational Creditor engaged in the business of supply of Polyester Chips had supplied goods to the corporate debtor and had raised two invoice dated 12.02.2017 and 13.02.2017. The applicant has further stated that despite repeated reminders the respondent company has not cleared the outstanding debts, therefore, this petition.
3. On perusal of record it is found that, in support of its claim, the operational creditor has placed on record copy of documents like invoices, lorry receipts, demand notice under Section 8 (1) of the IB Code, affidavit in support of the application in accordance with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and other relevant documents.
4. The corporate debtor has not filed any reply despite giving number of opportunities. During the course of final hearing also none remained present on behalf of the corporate debtor. It is also found

that demand notice served by the operational creditor has not been replied by the corporate debtor. The operational creditor has filed copy of track report dated 23.11.2019 as a proof of service of demand notice.

5. On perusal of the record it is also found that the instant petition filed by the applicant is well within limitation and there is no pre-existing dispute regarding the operational debt from the side of the corporate debtor. Further, such debt is due and payable and a default has occurred in repayment thereof.
6. The name of IRP has not been proposed which is not mandatory in case of an application filed under Section 9 of IBC, 2016. Hence, we shall appoint an IRP from the list approved by IBBI. The petition is otherwise complete and defect free.
7. In view of the above discussion, we admit this application and order as under:

ORDER

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- (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;

(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.

2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
3. The Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Lalitkumar Vithaldas Raithatha, having Registration No: IBBI/ IPA-001/IP-P01941/2019-2020/12966 Email Address: calalit@srlico.in** and having office at A-14/15, Earth Artica, Vasna Bhayli Road, Above HDFC Bank, Opp. Nilamber Bungalows, Vadodara 390 007 to act as an IRP under Section 13(1) (c) of the Code. The IRP is directed to file request/applications which he is required to file with the Adjudicating Authority as per provisions of IBC, 2016 read with CIRP Regulations, 2016.
4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend

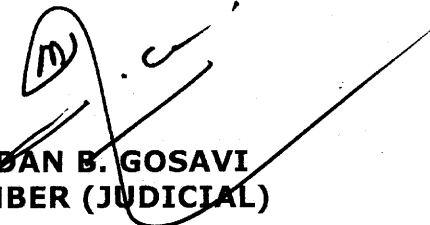
every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate. IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

5. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs. 2,00,000/- (Rupees two lacs Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report.
8. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working

days and upload the same on website immediately after pronouncement of the order.

9. Accordingly, CP (IB) No. 135/9/NCLT/AHM/2020 is allowed.
10. List the matter on 22.11.2021.


VIRENDRA KUMAR GUPTA
MEMBER (TECHNICAL)


MADAN B. GOSAVI
MEMBER (JUDICIAL)

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