

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

CP (IB) No.3775/MB/C-IV/2019

Under section 9 of the Insolvency &
Bankruptcy Code, 2016

In the matter of

J.J. Plastalloy Private Limited

[CIN: U24139UP1995PTC017711]

...Operational Creditor

Versus

Pasupati Flexipack Private Limited

[CIN: U74999MH2016PTC281836]

... Corporate Debtor

Order pronounced on : 28.04.2020

Coram:

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

Appearances:

For the Operational Creditor : Mr Viraj Parekh i/b Mr Saurabh
Pandya, 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 **J.J. Plastalloy Private Limited** ("the Operational Creditor") [CIN: U24139UP1995PTC017711],

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a company within the meaning of section 2(20) of the Companies Act, 2013 and represented by its Executive-Sales Marketing, Mr Manish Kumar, on the basis of a Board Resolution dated 18.10.2019 seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against **Pasupati Flexipack Private Limited ("the Corporate Debtor")**).

2. The Corporate Debtor is a private company limited by shares and incorporated on 31.05.2016 under the Companies Act, 2013, with the Registrar of Companies (RoC), Maharashtra, Mumbai. Its CIN is U74999MH2016PTC281836. Its registered office is Flat 101, 1st Floor, Sai Anand Plaza, Opp Golden Nest, Mira Bhayandar Road, Mira Road, Thane (East) 401107, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 22.10.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹2,82,244.00 (Rupees two lakh eighty-two thousand two hundred and forty-four only) as principal and ₹28,771.00 (Rupees twenty-eight thousand seven hundred and seventy-one only) as interest .
4. The case of the Operational Creditor is as follows: -
 - (a) The Operational Creditor supplied White Master Batch and Additive Master Batch under eight invoices based on purchase orders received by email from the Corporate Debtor, as follows (para 1 of Part IV at page 3 of the Petition):

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Sl No	Invoice details			Against Purchase Order dated
	Date	Number	Amount	
1.	25.05.2018	DG-414	1,02,660.00	20.05.2018
2.	01.08.2018	DG-918	4,425.00	24.07.2018
3.	21.08.2018	DG-1120	12,508.00	14.08.2018
4.	23.08.2018	DG-1144	64,900.00	22.08.2018
5.	06.10.2018	DG-1580	9,263.00	05.10.2018
6.	11.10.2018	DG-1623	1,05,329.00	05.10.2018
7.	17.10.2018	DG-1696	10,030.00	17.10.2018
8.	17.01.2019	DG-2548	80,214.00	11.01.2019
Total			3,89,329.00	

- (b) The goods were delivered to the Corporate Debtor. Delivery Challans against the invoices have been placed at **Exhibit II-B** (*colly*) at pp.19-26 of the petition (para 1 of Part IV at page 3 of the Petition);
- (c) Against the total sum of ₹3,89,329/-, the Corporate Debtor made payment of a sum of ₹1,07,085/- vide two cheques - (1) dated 15.10.2018 for ₹57,085/-, and (2) dated 16.10.2018 for ₹50,000/-. Both these cheques were duly honoured when presented, leaving a balance of ₹2,82,244/- as principal sum outstanding (para 1 of Part IV at page 3-4 of the Petition).
5. Invoices have been placed on record as **Exhibit 'II-A'** at pp.11-18. The invoices provide for interest in case of delayed payments, to be charged at the rate of 24% per annum. Bank statements are attached

as **Exhibit 'III'** at pp.29-32. The total debt due and payable to the Operational Creditor is ₹3,11,015.00 (Rupees three lakh eleven thousand and fifteen only), as mentioned at page 27 of the Petition.

6. The Operational Creditor had served a Demand Notice in Form 3 dated 19.04.2019 to the Corporate Debtor (**Exhibit 'I'**, pp.7-9) in terms of section 8 of the IBC. The Demand Notice has been duly delivered by Registered Post at the registered office of the Corporate Debtor on 20.05.2019. Tracking information from the India Post website has been placed at p.10 of the petition as evidence in this regard. The Corporate Debtor has not replied to the Demand Notice. Necessary affidavit of No Dispute in terms of section 9(3)(b) of the IBC has been annexed at **Exhibit 'IV'** at p.34 of the petition.
7. The Corporate Debtor has neither appeared nor filed any reply in the present proceedings.
8. We have heard the arguments of the Learned Counsel for the Operational Creditor and perused the records.
9. It is seen from the affidavit of service dated 20.11.2019 filed by the Operational Creditor that copy of the petition has been served on the Corporate Debtor by Speed Post on 24.10.2019. The Speed Post Acknowledgment Card as well as tracking information has been attached at pp.7-9 of the Affidavit of Service. Further, Court Notice dated 05.11.2019 has also been duly served on the Corporate Debtor by Speed Post on 13.11.2019. In spite of receipt of copies of the

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petition and court notice, there was neither any appearance nor was any reply filed on behalf of the Corporate Debtor.

10. Therefore, it appears that the Corporate Debtor is not interested in either contesting the claim nor discharging its liability.
11. 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 at the relevant time. 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.
12. The Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter.
13. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing **CP(IB) No.3775/MB/C-IV/2019** filed by **J.J. Plastalloy 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 **Pasupati Flexipack Private Limited [CIN: U74999MH2016PTC281836]**, the Corporate Debtor, is **admitted**.

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- (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

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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) Since the Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter, this Adjudicating Authority hereby appoints **Mr Hajari Lal Saini, Reg. No. IBBI/IPA-001/IP-P01553/2019-20/12494** having address at No.704, 'A' Wing, N.G Sterling, Opp. Queen Mary's High School, Old Golden Nest, Mira Bhayander Road, Mira Road (E), Thane, 401107 [email: cahlsaini@rediffmail.com, Mobile: 9987035237] as the IRP. 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.

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- (h) The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP of the Corporate Debtor.
- (i) The Operational Creditor shall deposit a sum of ₹2,50,000 (Rupees two lakh fifty thousand only) since the claim amount itself is less than ₹3.00 lakh 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) In terms of section 9(5)(i) of the IBC, 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.
- (k) A copy of this Order be also 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)

Sd/-
Rajasekhar V.K.
Member (Judicial)

28.04.2020