

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – II, CHENNAI**

**CP(IB)/106(CHE)2023**

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016  
r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016)*

*In the matter of **M/s. Integrated Crop Solutions Private Limited***

**M/s. Nutrifarm Tech Private Limited,**

CIN: U24100TZ2019PTC032271

Registered Office:

No. 9/204, Main Road,  
Belukurichi, Namakkal,  
Tamil Nadu-637 402

*... Petitioner / Operational Creditor*

-Vs-

**M/s. Integrated Crop Solutions Private Limited,**

CIN:U01403TN2015PTC099467

Registered Office:

No. 1, Mampazhapattu Road,  
Villupuram,  
Tamil Nadu-605 602

*... Respondent / Corporate Debtor*

*Order Pronounced on **1<sup>st</sup> August, 2023***

CORAM:

**SANJIV JAIN, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Operational Creditor: Mr. Xavier Nicholas Prabhu, PCS*

*For Corporate Debtor: Mr.M. Francis Antony, Advocate*

**ORDER**

(Hearing conducted through VC)

**Per: SANJIV JAIN, MEMBER (JUDICIAL)**



This application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **M/s. Nutrifarm Tech Private Limited** (hereinafter referred to as "**Operational Creditor/Applicant**") against **M/s. Integrated Crop Solutions Private Limited** (hereinafter referred to as "**Corporate Debtor/Respondent**") for initiating Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor.

2. **Part-I** of the application sets out the details of the Operational Creditor M/s. Nutrifarm Tech Private Limited which has its Registered Office at No.9/204, Main Road, Belukurichi, Namakkal, Tamil Nadu-637 402. **Part-II** gives the particulars of the Corporate Debtor M/s. Integrated Corp Solutions Private Limited. As per the details, the Corporate Debtor was incorporated on 03.03.2015 with Authorized Share Capital of Rs.5,00,000/- (Rupees Five Lakhs only) and Paid-Up Share Capital of Rs.4,05,000/- (Rupees Four Lakhs Five Thousand only) and its Registered Office is at No.1, Mampazhapattu Road, Villupuram, Tamil Nadu-605 602.

3. **Part-IV** of the application provides the total amount of debt as Rs.1,01,90,837/- (Rupees One Crore One Lakh Ninety Thousand Eight Hundred and Thirty Seven only) and the date of default as

30.06.2022. **Part-V** contains the details of the documents submitted with the application.

4. The case of the Applicant, in brief, is that the Corporate Debtor through its Managing Director Mr. E. Gopinath Kathirothayam had approached the Operational Creditor in February, 2020 and placed order for supply of agricultural based products and pesticides so as to sell them in and around Villupuram and its surrounding Villages. The Corporate Debtor requested for 3(three) days credit for the payments stating that in case the payment is not made in 3 days, the usual trade discount of 20% allowed to the traders need not be extended to it and in case, the payment is not made within a month, an interest of 2% per month may be charged by the Operational Creditor till the payment is made by the Corporate Debtor. It is stated that on the assurance given by the Corporate Debtor, the Operational Creditor supplied the itemslike Nutrogold 8 KG Bucket, Cabrigold 8 KG Bucket, Nutrizin Veg 100 GM, Nutrizin Veg 250 GM, Nutrizin Veg 500 GM on various dates and raised the invoices on the Corporate Debtor as below:



S.No	Date	Invoice No	Gross Selling Price	DNet Selling Price	GST on Net Selling	Bross Selling + GST
1	12-Feb-20	28	7,02,500	5,62,000	28,100	7,30,600
2	12-Feb-20	28A	7,33,125	5,86,500	70,380	8,03,505
3	11-Sep-20	173	7,02,500	5,62,000	28,100	7,30,600
4	11-Sep-20	173A	7,33,125	5,86,500	70,380	8,03,505
5	10-May-21	63	7,02,500	5,62,000	28,100	7,30,600
6	10-May-21	63A	7,33,125	5,86,500	70,380	8,03,505
7	15-Dec-21	204	7,02,500	5,62,000	28,100	7,30,600
8	15-Dec-21	204A	7,33,125	5,86,500	70,380	8,03,505
9	27-May-22	78	7,02,500	5,62,000	28,100	7,30,600
10	27-May-22	78A	7,33,125	5,86,500	70,380	8,03,505
<b>Total</b>			<b>71,78,125</b>	<b>57,42,500</b>	<b>4,92,400</b>	<b>76,70,525</b>

5. It is alleged that the Corporate Debtor did not make the payments against any of the invoices till date. It is stated that a principal sum of Rs.76,70,525/- (Rupees SeventySix Lakhs and Seventy Thousand Five Hundred and Twenty Five only) and interest Rs.25,20,312/- (Rupees Twenty Five Lakhs Twenty Thousand Three Hundred and Twelve only) became due and payable by the Corporate Debtor till June 2022. A Demand Notice in Form-3 was sent to the Corporate Debtor for payment of sum of Rs.1,01,90,837/- + Rs.9,20,463/- being the interest calculated till 31.12.2022 which was duly served upon the Corporate Debtor on 04.02.2023 but despite that, the Corporate Debtor did not make any payment. It is stated that there has been no dispute with

regard to the quality and quantity of the goods supplied by the Operational Creditor. It is therefore prayed that CIRP may be initiated against the Corporate Debtor.

6. On getting notice of the application, the Respondent filed its reply admitting that the amount is due to be paid to the Operational Creditor by the Corporate Debtor in view of the credit supplies made by the Operational Creditor. It is stated that its Managing Director Mr. Gopinath Kathirothayam was taking care of day-to-day affairs of the Company. The accounts were singly operated by him. Other directors were only like sleeping partners. He, using his influence in the market, got the supplies in Crores on credit from different companies but did not remit the cash sales money in the bank account of Respondent No.1. He looted all the money he received from the farmers. When the other Directors contacted Mr. Gopinath Kathirothayam, he refused to give proper accounts for receipts and payments and stopped coming to the Company office. The Directors also lodged the complaint with ROC, Chennai. Now he is absconding.

7. We have heard Learned Counsels for the parties and perused the records.

8. It is not in dispute that the Applicant/Operational Creditor had supplied agricultural items to the Corporate Debtor for the period from 12.02.2020 till 27.05.2022 and raised the bills for a

total sum of Rs.76,70,525/- (Rupees Seventy Six Lakhs Seventy Thousand Five Hundred and Twenty Five only). It was stipulated in the bills that discount is applicable only if the payment is made immediately on sale. If the payment is not made within 3 days, interest @ 2% per month shall be charged till the payment is made on the gross selling price.

9. It is seen from the table at para-4 above that two invoices at Serial No. 3 & 4 details of which are provided hereunder are squarely covered under the prohibited period and hit by Section 10A:

S. No.	Date	Invoice No.	Gross Selling Price	Net Selling Price	GST	Gross Selling +GST
3	11/09/2020	173	7,02,500	5,62,000	28,100	7,30,600
4	11/09/2020	173A	7,33,125	5,86,500	70,380	8,03,505
					<b>Total</b>	<b>15,34,105</b>

10. Section 10A of IBC, 2016 reads as under:

**10A. Suspension of initiation of corporate insolvency resolution process.**

Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

*Explanation.* - For the removal of doubt s, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March,2020.

The said time was extended twice vide notification numbers S.O. 3265 (E) dated 24.09.2020 and S.O. 4638(E) dated 22.12.2020 for a further period of 3 months each.

11. In case the above invoices are taken out of the total invoices aggregating to Rs.76,70,525/- (Rupees Seventy Six Lakhs Seventy Thousand Five Hundred and Twenty Five only), we are left with amount of Rs.61,36,420/- (Rupees Sixty One Lakhs Thirty Six Thousand Four Hundred and Twenty only), which is much below the threshold limit prescribed under S. 4 of IBC, 2016 standing at Rs. 1.00 Crore as on the date of filing of the present application even after adding the interest component.

12. As the application fails to meet the threshold limit, we are constrained to dismiss the present application.

13. The application is accordingly **dismissed** with no orders as to costs.

-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)

*Suguna*

-Sd-

**SANJIV JAIN**  
MEMBER (JUDICIAL)