

IN THE NATIONAL COMPANY LAW TRIBUNAL

PRINCIPAL BENCH

Company Petition No. IB-2580/PB/2019

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

M/s. STELLAR CORPORATION

...Applicant/Operational Creditor

VERSUS

M/s. SUMANGLAM IMPEX PVT. LTD.

...Respondent/ Corporate Debtor

Pronounced on: 02.06.2020

CORAM:

SH. B.S.V. PRAKASH KUMAR

HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant : Mr. Hitesh Sachar, Ms. Srishti Kapoor,
Ms. Nandita Choudhary, Advocates

For the Respondent : Mr. Ritwik Shukla, Advocate

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IB-2580/(PB)/2019

M/s. STELLAR CORPORATION VS. M/s. SUMANGLAM PVT. LTD.



Ms. Nandita Choudhary, Advocates
For the Respondent : Mr. Ritwik Shukla, Advocate

MEMO OF PARTIES

M/s. STELLAR CORPORATION

Through its Authorized Representative

Mr. Vikas Mohan Makkar

Having its registered office at:

R-15, Ground Floor,

Pul Pehladpur, M.B. Road,

New Delhi-110044

...Applicant/Operational Creditor

VERSUS

M/s. SUMANGLAM IMPEX PVT. LTD.

Having its registered office at:

Khasra No. 545, Village & PO

Tikri Kalam, New Delhi 110041

...Respondent/Corporate Debtor

ORDER

PER- SH. HEMANT KUMAR SARANGI, MEMBER (T)

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with

Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s. Stellar Corporation (for brevity 'Applicant'), through its authorized representative/ Partner Mr. Vikas Mohan Makkar, authorizing him to file present application, vide resolution dated 05.09.2019, with a prayer to initiate the Corporate Insolvency Resolution Process (CIRP), against M/s. Sumanglam Impex Pvt. Ltd. (for brevity 'Respondent').

2. The Applicant, the Operational Creditor, is a Registered Partnership Firm No. 1168 of 2019, under the provisions of Delhi Partnership (Registration of Firm) Rules, 1972, having its registered office at R-15, Ground Floor, Pul Pehladpur, M.B. Road, New Delhi 110044.
3. The Respondent, the Corporate Debtor, namely M/s. Sumanglam Impex Private Limited, is a company incorporated on 04.04.1988, under the provisions of Companies Act, 1956 with CIN No. U74899DL1988PTC031180, having its registered office at Khasra No. 545, Village & PO Tikri Kalam, Delhi-110041. The Authorised Share Capital of the

respondent company is Rs.1,60,00,000/- and Paid Up Share Capital of the company is Rs.1,58,60,000/- as per Master Data of the company.

4. It is the case of the applicant, that the Corporate Debtor entered into transaction with the Operational Creditor regarding purchase of adhesive from June 2017. That from 22.06.2017 to 07.12.2017, the Operational Creditor supplied adhesives to the Corporate Debtor, for which the Operational Creditor had raised following invoices:

Invoice No.	Invoice Date	Amount (Rs.)
E33	22.06.2017	26,163
E35	22.06.2017	10,200
E36	22.06.2017	6,528
4	07.07.2017	201,143
12	15.07.2017	17,818
15	18.07.2017	67,496



19	25.07.2017	165,495
28	01.08.2017	233,198
35	19.08.2017	115,994
36	19.08.2017	19,072
45	05.09.2017	24,391
59	20.09.2017	64,871
65	28.09.2017	52,864
83	25.10.2017	59,295
84	25.10.2017	19,072
120	07.12.2017	12,626
TOTAL (Including Ad-hoc Payments by rounding off.)		10,94,180

5. The Operational Creditor further states that, out of the total amount of Rs. 10,94,180/- (Rupees Ten Lakhs Ninety Four Thousand One Hundred Eighty), the Operational Creditor has not received any amount yet towards the above mentioned

invoices. The Operational Creditor has been continuously following up with the Corporate Debtor demanding the outstanding payment of the invoices through numerous emails.

6. In spite of various requests made and reminders sent by the Operational Creditor, the Corporate Debtor did not reply. On failure to pay the outstanding dues by the Corporate Debtor, the Operational Creditor sent a demand notice dated 22.06.2019, under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate Debtor, asking them to make the entire payment of Rs.10,94,180/- (Rupees Ten Lakhs Ninety Four Thousand One Hundred Eighty) plus interest @ 18% per annum, within 10 days from receipt of the notice, failing which the Operational Creditor shall initiate the Corporate Insolvency Resolution process against the Corporate Debtor.
7. The applicant has annexed postal receipt, for the delivery of the said demand notice at the registered office of the Corporate Debtor.



8. After the delivery of demand notice sent under Section 8 of the Code, the Corporate Debtor has not filed its reply to the said notice, nor raised any dispute by way of notice any other. As no payment was coming, hence this application, seeking to unfold the process of CIRP.
9. The Operational Creditor has stated that total debt due and payable is, Rs.10,94,180/- (Rupees Ten Lakhs Ninety Four Thousand One Hundred Eighty) plus interest @ 18% Per annum. The date of default is 06.01.2018.
10. Hence, the current application, under section 9 of the IBC, 2016 was filed by the Operational Creditor to initiate CIRP. The Operational Creditor has also filed affidavit of service wherein he states that the Corporate Debtor has been served through speed post on 26.11.2019 and through email on 26.11.2019 and by hand on 28.11.2019. The postal receipt along with the tracking report, the copy of email, in this regard has also been annexed along with the affidavit.
11. After the service of said notice, the Corporate Debtor has caused appearance in the matter on 06.12.2019. But

thereafter despite being given an opportunity to file reply, the Corporate Debtor has not filed its reply, therefore this bench proceeded ex-parte vide order dated 20.01.2020.

12. It is pertinent to note that the Operational Creditor has placed on record all the invoices, stating that the Corporate Debtor itself had acknowledged the said invoices. Once the debt is shown as due, it is for Corporate Debtor to prove that there are no outstanding dues to be paid to the Operational Creditor. The Corporate Debtor has time and again acknowledged its liability to pay the debt. However, no such payment has been made by the Corporate Debtor.
13. The Operational Creditor has attached the copy of Bank statements in compliance of the requirement of Section 9(3)(c) of the IBC 2016.
14. In view of above, we are satisfied that the present application is complete and the Operational Creditor is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, and fulfillment of requirements under



section 9(5) of the Code. Hence, the present application is admitted.

15. The registered office of Corporate Debtor is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
16. The Operational Creditor has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Mr. Amit Agrawal, having registration no. IBBI/IPA-002/IP-N00185/2017-18/10456, email address is amitagcs@gmail.com, as the IRP of the Corporate Debtor. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the I & B Code, as per the following directions:-

- a. The Moratorium is hereby declared prohibiting all of the following actions, namely,

- 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..

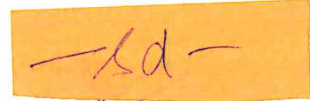
ii. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

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 Act, 2002 (SARFAESI Act);

- iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
17. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
18. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator
19. That 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 Bench approves the Resolution Plan under Sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

20. That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.
21. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional Mr. Amit Agrawal to meet out the expenses to perform the functions assigned in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Operational Creditor. The amount however will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.
22. The Registry is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update their website

by updating the status of 'Corporate Debtor' and specific mention regarding the admission of this application must be notified.



(SH. B.S.V. PRAKASH KUMAR)
ACTG. PRESIDENT



(HEMANT KUMAR SARANGI)
MEMBER (Technical)

SIDDHANT