

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

IBA/579/2019

Under Section 9 r/w Rule 6 of IBC, 2016

In the matter of M/s. Floram Shoes (India) Private Limited

Mr. G. Pandian

---Operational Creditor

V/s

M/s. Floram Shoes (India) Private Limited

---Corporate Debtor

Order delivered on: 01.08.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Operational Creditor: *Mrs. Jayanthi K. Shah, Advocate*

For the Corporate Debtor : **None-Present** on the date of hearing

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in the Open Court on 31.07.2019

It is an Insolvency and Bankruptcy Application filed u/s 9 by Mr. G. Pandian (Applicant/Employee) under the Insolvency & Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process

against the Corporate Debtor for having the Corporate Debtor defaulted in paying ₹ 10,98, 000 to the Operational Creditor herein.

2. The Applicant/Employee, worked as Deputy General Manager (HR) of Floram Shoes (India) Private Limited, has stated that monthly salary of ₹ 50,000 from November 2017 to February 2019 was not paid by the Corporate Debtor. When this Operational Creditor demanded for payment of arrears of salary, the Corporate Debtor on 29.03.2019 stated that it was in receipt of letter dated 25.03.2019 sent by the Operational Creditor claiming payment of ₹ 10,98,000 towards salary arrears and those arrears would be cleared after a wait of six months along with interest at the rate of 12% per annum. Thereafter, when no payment came to the Operational Creditor, on 03.04.2019, the Operational Creditor issued Section 8 Notice to the Corporate Debtor demanding payment of ₹ 10,98, 000 towards arrears of salary, failing which to initiate Corporate Insolvency Resolution Process against the Corporate Debtor. For there being no reply to Section 8 Notice, this

Applicant initiated Section 9 proceedings against the Corporate Debtor for initiation of CIRP.

3. After receipt of Section 8 Notice, the Corporate Debtor appeared before this Bench on 08.07.2019 and 23.07.2019 but not filed any objections to the claim of the Operational Creditor.

4. Since the Applicant has placed material disclosing that the Corporate Debtor, appointing him as Deputy General Manager (HR) and acknowledging failure to make payment of Operational Creditor's arrears of salary from November 2017 to February 2019 aggregating to ₹ 10,98,000, we are of the view that the Applicant has proved existence of debt and default, whereby we hereby admit this Application by appointing Mr. Amier Hamsa Ali Abbas Rawther as Interim Resolution Professional (IRP) with a direction to the Operational Creditor to pay the remuneration of IRP and also the expenses incurred by the IRP until CoC has been constituted.

Accordingly, this IBA/579/2019 is hereby admitted with the directions as follows:

(I) That Moratorium is hereby declared prohibiting following actions, namely,

(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 (SARFAESI Act);

(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.

- (II) 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.
- (III) 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.
- (IV) That the order of moratorium shall have effect from **31.07.2019** 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.
- (V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.
- (VI) That this Bench hereby appoints **Mr. Amier Hamsa Ali Abbas Rawther, having Regd. No. IBBI/IPA-001/IP-P01727-2019-20/12620, Bunglow C, Underwood Garden, 3A, Greenways Road, Raja Annamalai Puram, Chennai-600028 E-Mail:**

amierhamsa@gmail.com, Mobile: 9930846070 with his consent to carry the functions as mentioned under The Insolvency & Bankruptcy Code.

5. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-Sd-

(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-

(B. S.V. PRAKASH KUMAR)
Member (Judicial)

KNP/TJS