

IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH

(IB) No.2220/ND/2019

In the matter of:

The Insolvency and Bankruptcy Code, 2016

AND

In the matter of:

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

AND

In the matter of :

M/S Supreme Packaging Industries

A Partnership firm,

Having Office at:

Kahsra No.-55,

Village-Sadullapur

Gajraula, Uttar Pradesh -244235

Email id: [supremepackagingind@gmail.com](mailto:supremepackagingind@gmail.com)

Phone No.: 09837053308

*....Operational Creditor/Applicant.*

VERSUS

M/S Rayban Foods Private limited

(CIN No. U15111DL2006PTC217073)

Having Registered Office At:

T-301,302, Third floor

LSC Plot No. 6,

*Suraj*

**Chetan Complex, Shreshtha Viahir,  
Delhi-110092**

**Another Office At:  
Rampur Marg.  
Bulandshihar Road,  
Hapur-245101**

**Also At:  
R/o Kotla Mavatiyan,  
Hapur,  
Uttar Pradesh-245101**

**Phone: 9837061686/9837042686  
Email: biswojit@raybanfoods.com**

***....Corporate Debtor/Respondent.***

**ORDER DELIVERED ON : 12.12.2019**

**CORAM:**

Mr. Abni Ranjan Kumar Sinha, Hon'ble Member (Judicial)  
Ms. Sumita Purkayastha, Hon'ble Member (Technical)

**For the Applicant/ Operational Creditor:** Adv. Nishi Chaudhary, Adv.  
Priya Choubey and Adv. Vikas Jodon

**For the Respondent/ Corporate Debtor:** None.



**ORDER**

**Per Ms. Sumita Purkayastha Member (Technical)**

1. This is a petition filed by M/S Supreme Packaging industries invoking the provision of Section 9 of Insolvency and Bankruptcy Code, 2016 (“the Code”) against the Respondent (M/S Rayban Foods Private Limited) for initiating Corporate Insolvency Resolution Process (“CIRP”) against the Respondent.
2. The Applicant is a Partnership firm having Registration No. MBD-4293. The Corporate Debtor approached the Applicant for the purchase of plastic packaging materials, straping roll, sheets, strapin sheets, shrink bags, HM shrink, plastic material shrink for selling of its products. As per agreement between Applicant and Corporate Debtor, any delay in payments after 30 days from the date of the invoice shall attract the penal interest @18% per annum. On the basis of such arrangement, the Applicant had duly supplied and delivered the agreed materials at Hapur as and when ordered by the Corporate Debtor. It was averred by the Applicant that no complaint was ever raised by the Corporate Debtor with regard to the time bound service of Applicant and also quality of goods so procured from the Applicant.
3. Accordingly, the Applicant raised the following invoices:

S/No.	Invoice No.	Invoice Date	Amount (Rs.)
1.	3	26.07.2016	79,235
2.	5	30.07.2016	76,454
3.	13	17.08.2016	1,65,595
4.	21	25.08.2016	1,98,464
5.	27	01.09.2016	2,07,430

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6.	32	07.09.2016	1,23,266
7.	33	08.09.2016	69,000
8.	43	20.09.2016	1,75,857
9.	44	20.09.2016	27,600
10.	46	21.09.2016	2,02,841
11.	51	26.09.2016	2,21,655
12.	54	28.09.2016	1,95,109
13.	93	09.11.2016	65,250
14.	99	12.11.2016	1,21,365
15.	100	15.11.2016	1,95,750
16.	112	05.12.2016	1,70,302
17.	118	17.12.2016	1,50,075
18.	121	21.12.2016	1,99,665
19.	125	27.12.2016	1,40,809
20.	128	02.01.2017	1,94,314
21.	132	05.01.2017	2,03,580
22.	138	11.01.2017	2,14,524
23.	142	16.01.2017	2,12,798
24.	149	25.01.2017	2,34,900
25.	154	30.01.2017	1,14,750
26.	156	02.02.2017	1,64,700
27.	163	06.02.2017	1,49,738
28.	166	10.02.2017	2,18,072
29.	176	16.02.2017	2,59,999
30.	183	20.02.2017	89,837
31.	186	21.02.2017	8,156
32.	188	22.02.2017	20,880
		<b>Total (INR)</b>	48,71,970.60

4. The Corporate Debtor made only seven payments till 20.04.2017 for a total amount of Rs. 39,80,036/- out of the raised invoice amounts of Rs. 48,71,970.60/-. The Corporate Debtor is in default of making

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payment of remaining amount of Rs. 8,91,934.60/-. Several reminders were made by the Applicant for making the payment. As per averment, the Corporate Debtor paid taxes to the Commercial Tax Department on the goods procured from the Applicant whereby the Corporate Debtor acknowledged the receipts of the invoices raised by the Applicant. The Corporate Debtor has failed to make the payment to the Applicant.

5. The total amount of debt due and payable is Rs. 8,91,934.60/- with further interest @ 18% p.a. i.e. Rs. 3,66,769.59/-, till 23.06.2019.
6. Demand notice dated 01.07.2019 under Section 8 of the Insolvency and Bankruptcy Code, 2016 was sent by the Applicant at the registered office of the Corporate Debtor as per the master data available in the website of Ministry of Corporate Affairs as well as at the other offices of the Corporate Debtor and its directors. The service though registered AD is served and affected.
7. As per the averments of the Petitioner, the Corporate Debtors did not make the payment against the defaulted amount. None appeared on behalf of the Corporate Debtor to oppose the prayer made by the petitioner, hence proceedings were posted for ex-parte hearing on 16.10.2019.
8. The Cause of Action arose on 20.04.2017 and the present petition being filed in August, 2019 is within the limitation, being within three years from the date of the cause of action.
9. It has been observed that the demand notice was served at the registered office of the Corporate Debtor at its respective address by speed post AD. Also, the amount of default is more than Rs. 1,00,000/-. Considering the circumstances this Adjudicating Authority is inclined to admit this petition and initiate CIRP of the



Respondent. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith staying:-

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (b) transferring, encumbering, alienating or disposing of by the corporate debt or 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.*

Further:

*(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

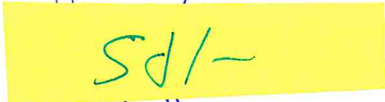
*(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*


*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section*



*(1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”*

10. The Operational Creditor has proposed the name of the IRP. Accordingly, we appoint Mr. Vijay Kumar, an Insolvency Professional, registration no. IBBI/IPA-002/IP-N00652/2018-19/12020 email- vk\_hv@yahoo.co.in duly empanelled with the IBBI as the IRP. The written consent letter of the proposed IRP is annexed at page no. 306. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file his report before the Adjudicating Authority.
11. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.
12. Petition is therefore admitted.

  
**SUMITA PURKAYASTHA**  
**MEMBER (TECHNICAL)**

  
**ABNI RANAJN KUMAR SINHA**  
**MEMBER (JUDICIAL)**

