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**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

**C.P. (I.B) No.470/NCLT/AHM/2019**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 20.02.2020**

Name of the Company: SVM Cera Pvt. Ltd.  
V/s.  
Laurent Tiles Pvt. Ltd.

Section : Section 9 of the Insolvency and Bankruptcy Code

**S.NO. NAME (CAPITAL LETTERS)      DESIGNATION      REPRESENTATION      SIGNATURE**

1.


2.

**ORDER**

None appeared on behalf of the parties.

The order is pronounced in the open court, vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER TECHNICAL**

  
**MANORAMA KUMARI  
MEMBER JUDICIAL**

Dated this the 20th day of February, 2020

**BEFORE ADJUDICATING AUTHORITY (NCLT)  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. (IB) 470/9/NCLT/AHM/2019**

**In the matter of:**

**SVM CERA PRIVATE LIMITED**

5188/A, GIDC Estate  
Ankleshwar 393 002  
Dist. Bharuch  
Gujarat State

:

**Petitioner**  
Financial Creditor

**Versus**

**M/s. Laurent Tiles Private Limited**

8A, National Highway  
Lakhdarpura Road  
Morbi 363 641  
Gujarat State

:

**Respondent**  
[Corporate Debtor]

**Order delivered on 20<sup>th</sup> February, 2020**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

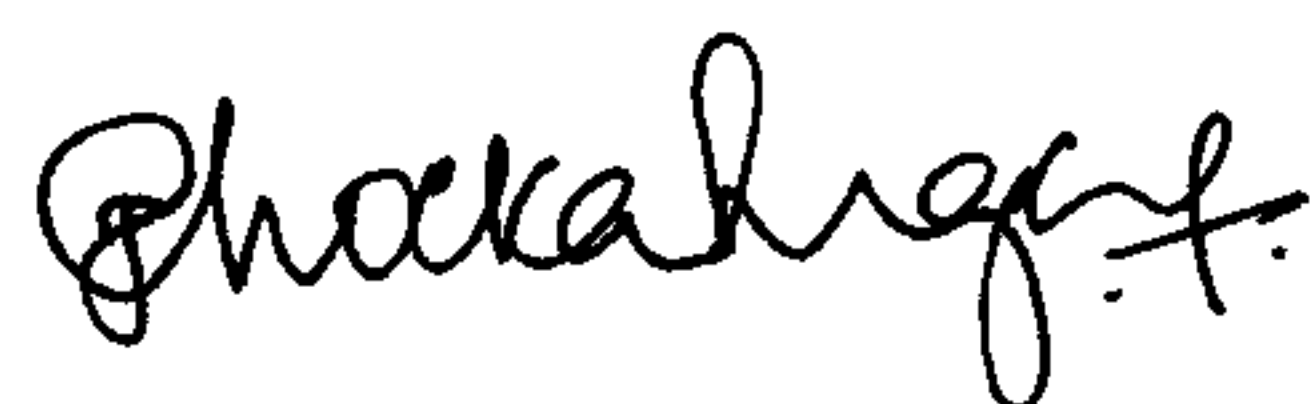
**Appearance:**

PCS Mr. Amrish Gandhi for petitioner.

**ORDER**

**[Per: Ms. Manorama Kumari, Member (J)]**

1. Mr. Hansraj Parjapat, being director of the operational creditor – M/s. SVM Cera Private Limited filed this Petition under Section 9 of The Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] read with Rule 6 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 [hereinafter referred to as "the Rules"], as operational creditor/applicant.
2. The applicant/operational creditor is a private limited company having identification U01132GJ1986PTC101100





and having its address at GIDC Estate, Ankleshwar, Bharuch District, Gujarat state.

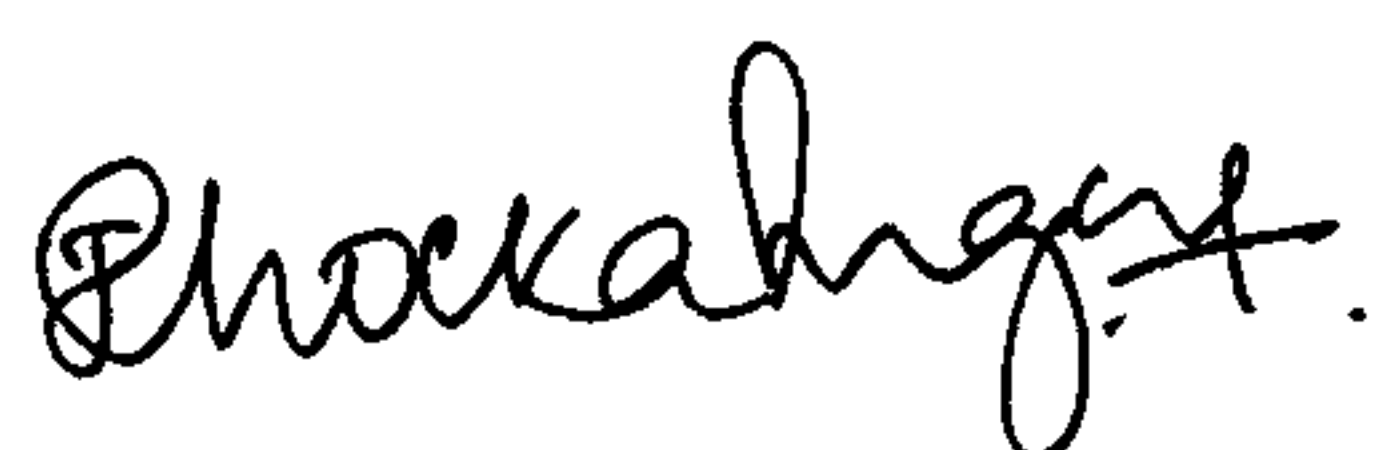
3. The respondent/corporate debtor is a company registered under the Companies Act, incorporated on 15.10.2003 having identification No. U26933GJ2003PTC043058 and having registered office at Morbi, Gujarat State. Authorised share capital of the respondent company is Rs. 2,75,00,000/- and paid up share capital is Rs. 2,65,00,000/-
4. The applicant/operational creditor has stated that it is engaged in the business of manufacturing and trading of minerals and sold and supplied goods to the respondent during the period from 26.11.2015 to 15.06.2018 as per the detailed computation annexed to the application (**page 26**).
5. The operational creditor has stated that towards the goods supplied to the corporate respondent during the period from 26.11.2015 to 15.06.2018, nine bills for an aggregate amount of Rs. 15,06,636/- is outstanding along with interest at the rate of 24% per annum. Accordingly, the total principal operational debt along with interest **Rs. 21,87,975/- (Rupees twenty-one lacs eighty-seven thousand nine hundred seventy-five only)** is due and payable to the applicant by the corporate debtor as on 31.05.2019.
6. In support of its claim the operational creditor has furnished relevant documents like copy of demand notice, table showing the calculation of operational debt, affidavit in support of the application, affidavit verifying facts and documents in support of the petition, copy of ledger account, bank statement etc.

*Shoekahgrt.*

*Chhawan*

**Findings**

7. On perusal of the record it is found that the instant petition filed on 3<sup>rd</sup> July, 2019 was notified for hearing for the first time on 12.07.2019. Thereafter, despite giving number of opportunities, none appeared on behalf of the respondent and the matter was finally heard ex parte on 13.02.2020 as the service is complete.
8. On perusal of the record it is also found that the instant petition filed by the applicant is well within limitation and there is no denial of the operational debt and/or any pre-existing dispute regarding the operational debt from the corporate debtor.
9. In the instant application, from the material placed on record by the Applicant, this Authority is satisfied that the application is complete in all respect and the Corporate Debtor committed default in paying the operational debt to the Applicant.
10. The documents produced by the operational creditor clearly establish the 'debt' and there is default on the part of the Corporate Debtor in payment of the 'operational debt'.
11. On perusal of the records it is also found that the corporate debtor has never raised any dispute on issuance of notice u/s 8 of the I & B Code nor have ever raised any dispute prior to the issuance of notice.
12. From the above discussions it is evident that the respondent has defaulted the debt and has admitted the operational debt.



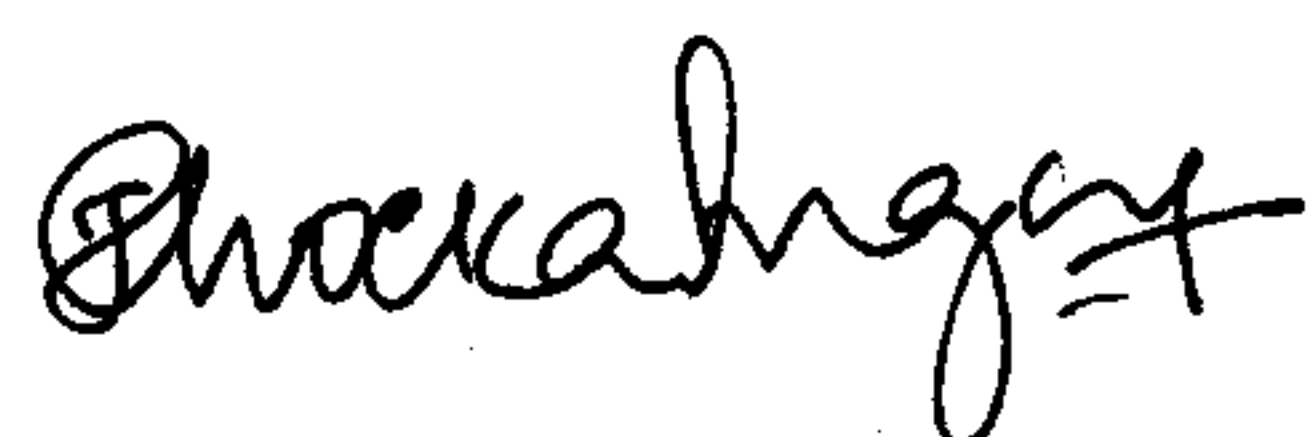
13. It has been observed in ***Mobilox Innovative Private Limited vs. Kirusa Software Private Limited [2017] 1 IBJ(JP) 2 SC*** that while examining an application under Section 9 of the Act, will have to determine the following: -

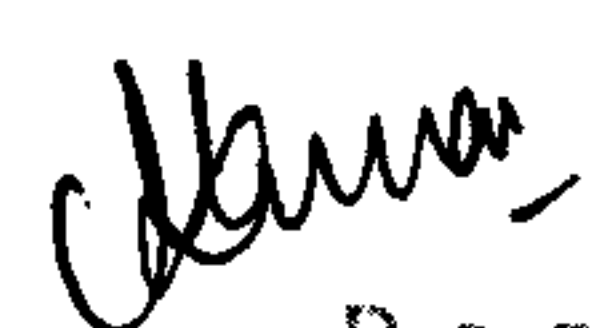
- (i) Whether there is an "operational debt" as defined exceeding Rs. 1.00 lac (See Section 4 of the Act)
- (ii) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid?  
**and**
- (iii) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?

If any of the aforesaid conditions is lacking, the application would have to be rejected.

14. Thus, under the facts and circumstances and as discussed above, in the light of the Hon'ble Supreme Court Judgement and the provisions thereof as enshrined in Insolvency & Bankruptcy Code, this adjudicating authority is of the considered view that operational debt is due to the Applicant and it fulfilled the requirement of I & B Code. That, service is complete and no dispute has ever been raised by the respondent at any point of time. That, Applicant is an Operational Creditor within the meaning of Section 5 sub-section 20 of the Code. From the aforesaid material on record, petitioner is able to establish that there exists debt as well as occurrence of default and the amount claimed by operational creditor is payable in law by the corporate debtor as the same is not barred by any law of limitation and/or any other law for the time being in force.

15. Section 13 of the Code enjoins upon the Adjudicating Authority to exercise its discretion to pass an order to declare a moratorium for the purposes referred to in Section 14, to cause a public announcement of the initiation of corporate insolvency resolution and call for submission of





claims as provided under Section 15 of the Code. Sub-section (2) of Section 13 says that public announcement shall be made immediately after the appointment of Interim Insolvency Resolution Professional. This Adjudicating Authority direct the Interim Resolution Professional to make public announcement of initiation of Corporate Insolvency Process and call for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.

16. From the above stated discussion and on the basis of material available on record it is evident that the corporate debtor has committed default in payment of operational debt and, therefore, it is a fit case to initiate Insolvency Resolution Process by admitting the Application under Section 9(5)(1) of the Code.
17. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
  - (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 (54 of 2002);



(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.

18. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
19. The order of moratorium shall have effect from the date of receipt of authenticated copy 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. The applicant/operational creditor has not proposed the name of Interim Resolution Professional. Therefore, this Adjudicating Authority hereby appoint CS Mr. Keyur J. Shah, 408, Chitrarath Complex, Off. C.G. Road, Navrangpura, Ahmedabad 380 009, Gujarat (cs keyurshah@gmail.com) (9909702182) having registration No. IBBI/IPA-002/IP-N00244/2017-18/10729 to act as an interim resolution professional under Section 13(1)(c) of the Code.
21. This Petition is accordingly admitted.

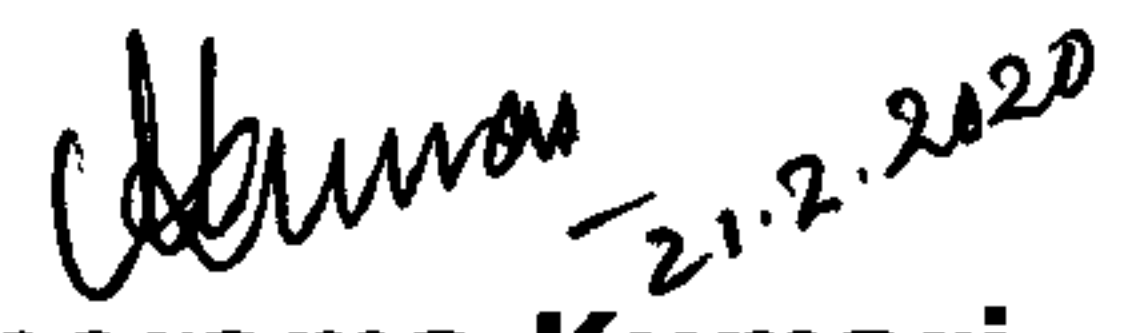
*Shachin Rajgopal*

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22. Communicate a copy of this order to the applicant, Corporate Debtor, Registrar of Companies and to the Interim Resolution Professional.
23. Registry is directed to inform the office of Registrar of Companies that the respondent company is under corporate insolvency resolution process and, therefore, no proceedings for striking off name of the respondent company be initiated arising out of non-compliances of Sections 159 to 162 & 220 etc. of the Companies Act, 2013 as it would be detrimental to the process of the liquidation and sale of assets to realise the amount for all the stakeholders.



**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**



**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

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