

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

C.P. (IB) 3344/2019

Under section 9 of the IBC, 2016

**In the matter of**

Sureways Shipping Solutions

113, Bharat Chamber,

Baroda Street, Masjid Bandar-E,

Mumbai-400 009

.... Operational Creditor

v/s.

Sun Acrylics Pvt. Ltd.

Plot No: 33/35, Achhad Indl.,

East Achhad, Tq. Talasari,

Thane-401 606

.... Corporate Debtor

**Order delivered on: 19.11.2019**

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)  
Hon'ble Shyam Babu Gautam, Member (Technical)

For the Petitioner: Rajan Agarwal, Advocate

For the Corporate Debtor: Raina Birla, Advocate

**Per: Shyam Babu Gautam, Member (Technical)**

**ORDER**

1. This Company Petition is filed by Sureways Shipping Solutions, a shipping solution company (hereinafter called "Operational Creditor") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Sun Acrylics Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the petitioner in view of the services provided by them by invoking the provisions of Section 8 and 9 of Insolvency and Bankruptcy Code (hereinafter



called "Code") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Operational Creditor is a shipping solution company providing clearing and forwarding services to its clients. The Corporate Debtor is a company incorporated on 15/05/1990 bearing CIN UP25209MH1990PTC56535 and having authorized share capital Rs. 1,00,00,000/- and paid up share capital of Rs.62,50,000/-.
3. The counsel appearing on behalf of the Operational Creditor submitted that there were clearing and forwarding services provided for which invoices were raised on the Corporate Debtor. The terms of the payment were agreed between the parties and credit period of fifteen days was fixed after which Interest would be charged @24% per annum.
4. The counsel for the Operational Creditor also submitted that the services were continued to be provided till 31<sup>st</sup> January, 2019 and that the payments were received from the Corporate Debtor till 22/01/2019. The last payment received was of Rs. 7,67,400/- (Rs. 7,00,000/- and Rs. 67,400/- received in part payment towards Invoice No. IMO02668 dated 10/01/2019)
5. Operational Creditor further submits that there are three invoices outstanding for payment the first being Invoice No: IMP02668 dated 10/01/2019 which was partially paid to the extent of Rs. 8,59,342/- and the balance outstanding amount yet to be paid is Rs. 26,747/-. Therefore, the first date of default is 25/01/2019. The second invoice is numbered IMP02835 dated 31/01/2019 of an amount of Rs. 6,25,897/- and the third is Invoice No: IMP02835A dated 31/01/2019 for Rs. 5,711/-. The amount was to be paid within 15 days and thus, the date of default is 15/02/2019. All the three invoices aggregate to a total of Rs. 6,58,355/-.
6. The counsel appearing on behalf of the Operational Creditor mentioned that there was demand of payment by way of various calls made over mobile and landline and also through various e-mails, the details of which are annexed with the copy of the petition. Also, a demand notice dated 30/07/2019 was sent by the Operational



Creditor to the Corporate Debtor which was received on 31/07/2019 but there was no reply to it.

7. The counsel further mentioned that there was no security provided by the Corporate Debtor to the Operational Creditor. The amount claimed to be in default is Rs. 7,30,151/- along with interest of Rs. 71,796/- upon the principal amount of Rs. 6,58,355/- on the invoices raised by the Operational Creditor to the Corporate Debtor.
8. On 22/10/2019, the counsel for the Corporate Debtor appeared and admitted the liability during the hearing stating that the respondent company is unable to pay the debt and hence admitted the default. Therefore, the following order is hereby passed:

**ORDER**

9. We have heard both the parties. After perusal of all the documents submitted by the petitioner, there remains no doubt on the fact that there were various invoices raised by the Operational Creditor in favor of the Corporate Debtor and that certain amounts were even paid. But later there was default on the part of the Corporate Debtor which includes one invoice which is partly paid, and two invoices are unpaid. The petitioner has annexed the invoices.
10. The invoices of the Operational Creditor clearly indicate the interest to be paid at the rate of 24% per annum on all bills overdue for more than 15 days. Therefore, the date of default for the invoice raised on 10/01/2019 is 25/01/2019 and that for the remaining two invoices raised on 31/01/2019 is 15/02/2019.
11. The Operational Creditor had time and again reminded the Corporate Debtor to make the payments. Also, a demand notice was sent dated 30/07/2019 and the postal acknowledgement that the notice was received on 31/07/2019 is also annexed with the copy of the petition. But there was no reply to this demand notice.
12. The counsel for the Corporate Debtor appeared before this Bench on 22/10/2019 and admitted the existence of debt and the default on their part by stating in open court that the respondent company is



not in a position to pay the debt and therefore defaulted in making the payments.

13. Therefore, it can be concluded that the documents submitted by the petitioner are enough to establish the debt upon the Corporate Debtor and that they defaulted in repaying the debt which they themselves have admitted. Also, the amount of debt is much above the minimum required amount of Rs.1,00,000/- Hence, all the requisite conditions necessary for admission of a petition under Section 9 have been found to be fulfilled and therefore, this petition deserves to be admitted.
14. Therefore, this Bench having been satisfied with the Petition filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this petition declaring moratorium with the directions as mentioned below:
  - (a) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
  - (b) 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.
  - (c) 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.



- (d) That the order of moratorium shall have effect from 19.11.2019 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.
- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Vijay P. Lulla, having his registered office at 201, Satchitanand Building, 2<sup>nd</sup> Floor, 12<sup>th</sup> Road, Khar (West), Mumbai – 400 052 and having Registration No: IBBI/IPA-001/IP-P00323/2017-18/10593 as an interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code.
15. Accordingly, this Petition is allowed.
16. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-  
**SHYAM BABU GAUTAM**  
Member (Technical)

Sd/-  
**BHASKARA PANTULA MOHAN**  
Member (Judicial)



Certified True Copy  
Copy Issued "free of cost"  
On 27/11/2019  
  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench