

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

CP (IB) No.3782/MB.II/2018

*Under section 9 of the Insolvency and
Bankruptcy Code, 2016*

In the matter of

Shree Sales Corporation Private Limited
[CIN: U51909MH2003PTC143273]

...Operational Creditor

Versus

Rolson Synthetics Private Limited
[CIN: U21010MH1988PTC047625]

... Corporate Debtor

Order pronounced on : 30.09.2020

Coram:

Mr. Rajasekhar V.K. : Member (Judicial)

Mr. Ravikumar Duraisamy : Member (Technical)

Appearances:

For the Operational Creditor : Ms Rita Yadav, Advocate

For the Corporate Debtor : Mr Vineet Jain & Mr Kewal
Chand, Directors of the Corporate
Debtor (*in person on different dates of
hearing*)

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This is a Company Petition filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) by Shree Sales Corporation Private

Limited [CIN: U51909MH2003PTC143273], a company within the meaning of section 2(20) of the Companies Act, 2013 (*Operational Creditor*) and represented by its Director, Mr Damodarlal Ramlal Malu, on the basis of a Board Resolution dated 10.09.2018, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Rolson Synthetics Private Limited (*Corporate Debtor*).

2. The Corporate Debtor is a private company limited by shares and incorporated on 07.06.1988 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Mumbai. Its CIN is U21010MH1988PTC047625. Its registered office is at No.343, Kewal Industrial Estate, Senapati Bapat Marg, Lower Parel, Mumbai 400013, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 05.10.2018 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹20,89,391.00 (Rupees twenty lakh eighty-nine thousand three hundred and ninety-one only) as principal as on 18.12.2017, which is stated to be the date of default, with interest thereon.
4. The case of the Operational Creditor is as follows: -
 - (a) The Operational Creditor is engaged in the business of coal, coal gas production plant and equipment, coal and ore pressing plant and equipment, and tar processing plant and equipment (*para 1 at page 6 of the Petition*);
 - (b) The Operational Creditor supplied imported coal and steam coal to the Corporate Debtor as per their instructions, and raised invoiced (*para 2-4 at page 6 of the Petition*);

5. There is a sum of ₹20,89,391/- due and payable by the Corporate Debtor to the Operational Creditor as on 06.09.2018, along with interest at the rate of 18% thereon from the date of default (*para 5 at page 6 of the Petition*).
6. Invoices have been placed on record as Exhibit 'B' at pp.19-32. The invoices provide for interest in case of delayed payments, to be charged at the rate of 18% per annum. Bank statements are attached as Exhibit 'C' at pp.33-42. The total debt due and payable to the Operational Creditor is ₹20,89,391.00 (Rupees twenty lakh eighty-nine thousand three hundred and ninety-one only), as mentioned at page 6 of the Petition.
7. The Operational Creditor had served a Demand Notice in Form 3 dated 06.09.2018 to the Corporate Debtor (Exhibit 'A', pp.14-18) in terms of section 8 of the IBC. The Corporate Debtor has not replied to the Demand Notice.
8. The Corporate Debtor, through its directors, has unequivocally acknowledged the debt in its affidavit in reply. It has been mentioned in the reply that the Corporate Debtor is not operational due to current market conditions of the textile industry (para 3 at page 2 of the Reply) Mr Vineet Jain & Mr Kewal Chand, Learned Directors of the Corporate Debtor appeared in person on behalf of the Corporate Debtor and made their submissions. The directors have reiterated the same at the time of hearing. It was submitted that the Corporate Debtor is unable to get funds to repay the Operational Creditor.
9. We have heard the arguments of both sides and perused the records.

10. The affidavit in reply dated 12.02.2020 of the Corporate Debtor admits the liability and states that the Corporate Debtor is not in position to repay the debt, and the submissions made by the directors of the Corporate Debtor at the hearing on 04.03.2020, establishes the existence of debt and default.
11. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
12. The Operational Creditor has proposed the name of Mr Vimal Kumar Agrawal, Reg. No.IBBI/IPA-001/IP-P00741/2017-2018/12247, as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
13. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing CP (IB) No.3782/MB.II/2018 filed by Shree Sales Corporation Private Limited, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against Rolson Synthetics Private Limited [CIN: U21010MH1988PTC047625], the Corporate Debtor, is admitted.

- (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
- (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 (Sarfaesi) Act, 2002;
 - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium,-
- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of

the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) Mr Vimal Kumar Agrawal, Registration No.IBBI/IPA-001/IP-P00741/2017-2018/12247, having address at Shop Nos.11&12, Krishna Kunj, Above HDFC Bank, 150 Feet Road, Bhayander (West), Thane 401 101 [email: vimalpagarwal@rediffmail.com], is hereby appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC
- (g) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Operational Creditor shall deposit a sum of ₹3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising

out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

- (i) In terms of section 9(5)(i) of the IBC, the Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order. Additionally, the Operational Creditor shall also serve a copy of this order on the IRP as soon as the order is made available on the NCLT website, to enable the IRP to take charge immediately and also on the Corporate Debtor.
- (j) A copy of this Order be also sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

Sd/-
Ravikumar Duraisamy
Member (Technical)

30.09.2020

Sd/-
Rajasekhar V.K.
Member (Judicial)