

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I**

C.P.(IB)/241(AHM)/2021

(In the matter of Section 9 of Insolvency & Bankruptcy Code, 2016)

In the matter of

Kadam Kirtibhai Patel

Proprietor of Pearl Impex

.....Applicant/Operational Creditor

VERSUS

Map Oil LLP

.....Respondent/Corporate Debtor

Order delivered on: 26.04.2022

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

MR. AJAI DAS MEHROTRA

HON'BLE MEMBER (Technical)

MEMO OF PARTIES

Kadam Kirtibhai Patel,

Proprietor of Pearl Impex

Having address at:

5/B, Platinum Plaza,

Kalol Road, Kadi,

Mehsana, Gujarat-382715



Versus

Map Oil LLP

Having address at:

10TH Floor, D Block, Ganesh Meridian,
Opp. Gujarat High Court,
S.G. Highway
Ahmedabad, Gandhinagar-380061

For the Applicant: Ld. Adv. Mr. Nachiket D Mehta

For the Respondent: Ld. Adv. Mr. Aman Shankar

ORDER

1. The instant company application is filed by Mr. Kadam Kiratibhai Patel, Proprietor of M/s. Pearl Impex, the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IB Code**") for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor M/s. Map Oil LLP, having Identification No. LLPIN:- AAF-4591 for the default amount of Rs. 1,49,20,054/-.
2. It is submitted that the Registered office of the Corporate Debtor is situated at 10th Floor, D Block, Ganesh Meridian, Opp. Gujarat High Court, S. G. Highway, Ahmedabad, Gandhinagar, Gujarat-380061. Hence, this Adjudicating Authority has jurisdiction to adjudicate this application.
3. It is submitted that the Corporate Debtor placed an order to purchase cotton-seed oil from the Operational Creditor. Goods were supplied as per the purchase order to the Corporate

Debtor. The Operational Creditor raised four invoices against the supplied goods for the amount of Rs. 1,49,20,054/- . A copy of the purchase order, invoices, and delivery notes are annexed with the application. The aforesaid outstanding amount was to be paid by the Corporate Debtor to the Operational Creditor within 10 days from the date of invoices, i.e., 15.04.2021.

4. It is further submitted that number of requests and reminders were made by the Operational Creditor to the Corporate Debtor for the payment of the outstanding amount. But the Corporate Debtor failed to pay the aforesaid outstanding amount. Thereafter, the Operational Creditor sent a reminder letter dated 16.08.2021 for payment of outstanding amount of Rs. 1,49,20,054/-. The Corporate Debtor, in response to the aforesaid letter, sent a letter dated 18.08.2021 to the Operational Creditor and stated that there is a financial crisis due to the Covid-19, hence, the Corporate Debtor is unable to pay the outstanding amount. Further Corporate Debtor undertook to pay the aforesaid outstanding amount as soon as finance will be available.

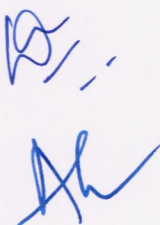
5. Under the compelling circumstances, the Operational Creditor issued a statutory demand notice on 08.09.2021 under Section 8 of the IB Code in Form-3 & 4, and the same was delivered to

the Corporate Debtor on 13.09.2021 as a proof of service, copy of postal receipt alongwith trackreport is annexed with the application. The Operational Creditor also stated that the Corporate Debtor neither paid the outstanding amount nor replied to the said demand notice. Hence, this application is filed for initiation of CIRP against the Corporate Debtor.

6. The Corporate Debtor filed its reply on 24.12.2021 wherein the Corporate Debtor has admitted the outstanding amount of Rs. 1,49,20,054/- and further stated that due to financial crunch, the Corporate Debtor is unable to pay the outstanding amount to the Operational Creditor.
7. The Corporate Debtor further stated that the account of the Corporate Debtor has been classified as NPA by the Bank and the Corporate Debtor is in process of restructuring the said account. As soon as the account of the Corporate Debtor is restructured, the entire outstanding amount of the applicant shall be paid.
8. Heard both sides and perused the material on record. It is noted that the Operational Creditor supplied the goods to the Corporate Debtor as per the purchase order placed by the Corporate Debtor, and raised the four invoices dated 15.04.2021 for the amount of Rs. 1,49,20,054/-. The Corporate

Debtor acknowledged the aforesaid outstanding amount vide letter dated 18.08.2021. The demand notice dated 08.09.2021 was issued to the Corporate Debtor by the Operational Creditor and the same was delivered on 13.09.2021. However, the Corporate Debtor neither paid the outstanding amount nor replied to the said demand notice. Moreover, the Corporate Debtor has admitted the aforesaid outstanding amount in its reply to the application dated 24.12.2021.

9. Instant application is otherwise complete as per the provisions of section 9 (5) of the IB Code and meets the threshold limit as prescribed under Section 4 of the IB Code.
10. The date of default is 25.04.2021 as per part IV of form V, and application is filed on 02.12.2021 hence the application is within limitation and not barred by law.
11. As a sequel to the above the application is admitted under section 9 (5) (a) of the IB Code and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

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- (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;*
- (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. Moreover, during the pendency of the moratorium period, terms of section 14 (2) to 14(4) of the code shall come in force.*

12. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

13. The Applicant has proposed the named of Mr. Dhaval Jitendrakumar Mistry having Registration Number IBBI/IPA-001/IP-P-01853/2019-20/12849 (email:


cadhavalmistry@yahoo.com, Address: 9-B, Vardan Complex, Near Vimal House, Lakhundi Circle, Navrangpura, Ahmedabad-380014), duly registered with Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional whose consent in Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules,

2016 stating therein that no disciplinary proceedings are pending against the named IRP, is on record. Accordingly, we appoint Mr. Dhaval Jitendrakumar Mistry as IRP of the Corporate Debtor.

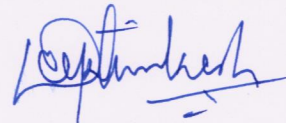
14. The IRP shall perform all his functions as contemplated under various provisions of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person associated with management of the Corporate Debtor are under a legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with the IRP, do not assist or Co-operate. IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
15. The IRP shall make the public announcement of the initiation of the Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the IBC, 2016.
16. We direct the Applicant to deposit a sum of Rs. 2,00,000/- with the Interim Resolution Professional, namely CA Dhaval

Jitendrakumar Mistry to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The needful shall be done within one week from the date of receipt this of order by the Operational Creditor.

17. The IRP shall be under the duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of an obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
18. Copy of the order shall be communicated to the Applicant, Corporate Debtor as well as to the IRP appointed herein, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records and also to RoC for updating the Master Data. RoC shall send compliance report to the Registrar, NCLT.
19. Application is allowed and disposed of.



(AJAI DAS MEHROTRA)
MEMBER (T)



(DR. DEEPTI MUKESH)
MEMBER (J)

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