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C.P.(IB) No.235/BB/18

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB) No. 235/BB/18

U/s Section 9 of IBC, 2016

R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of:

M/s Vaishnavi Industries

Represented by its Proprietor

Mr. Nagesha H. R.

Plot No. 133, 3rd Phase, 8th Main,
3rd Cross, Peenya Industrial Area,
Bangalore – 560 058.

- Petitioner/Operational Creditor

Versus

M/s Orjjean Private Limited

No. 29, Vadrappalya, J P Nagar, 8th Phase
2nd Block, Gottigere Post,
Bangalore – 560083.

- Respondent/Corporate Debtor

Date of Order: 07th August, 2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsel:

For the Petitioner : Shri Thirupal Gorige, PCS
For the Respondent : Shri B.Y. Arun Dev, Advocate

ORDER

Per: **Dr. Ashok Kumar Mishra, Member (T)**

1. The Company Petition bearing C.P. (IB) No. 235/BB/18 is filed by M/s. Vaishnavi Industries, under Section 9 of the Insolvency and Bankruptcy Code read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, against M/s. Orjjean Private Limited, by inter alia, seeking to admit the present petition to initiate corporate insolvency resolution process of M/s. Orjjean Private Limited, in accordance with the provisions of the



Insolvency and Bankruptcy Code, by appointing an interim resolution professional, etc.

2. Brief facts, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:

- (1) M/s Vaishnavi Industries having its office at Plot No. 133, 3rd Phase, 8th Main, 3rd Cross, Peenya Industrial Area, Bangalore – 560058 is represented by its Proprietor Mr. Nagesha H R and is primarily engaged in the business of trading in chemicals of various types as required by the industries.
- (2) M/s Orjjean Private Limited was incorporated on 13.10.2011 bearing CIN No. U18201KA2011PTC060808. Its authorized nominal share capital is Rs. 2,00,00,000 (Rupees Two Crore Only) and paid up share capital Rs. Rs. 99,45,000 (Rupees Ninety Nine Lakhs and Forty Five Thousand Only). The registered office of the Respondent Company is situated at No. 29, Vadrappalya, J P Nagar 8th Phase, 2nd Block, Gottigere Post, Bangalore – 560083.
- (3) The Applicant was continuously supplying material and getting payments either with or without delay. However, without information to the Applicant, the Corporate Debtor stopped making the payments from September, 2017 onwards. That the Applicant has not received the payment for his material supplied (being various chemicals used in laundering process) between December 2014 to June 2017 with the Principal Amount being Rs. 8,46,450.70/- and interest amount of Rs. 3,82,311.20/- together totalling to Rs. 12,28,762/-.
- (4) A Demand Notice dated 17th July 2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016 was issued to the Corporate Debtor. However, the Corporate Debtor has not responded to the same.



3. The Corporate Debtor has neither responded to the above Demand Notice dated 17.07.2018 nor appeared before this Tribunal save for one hearing on 29.01.2019, wherein Shri B.Y Arjun Dev accepted notice for the Respondent, post the direction of the Tribunal to issue notice to the Respondent on 07.12.2018, and requested a short time to file reply and subsequently never appeared.
4. Heard Shri Thirupal Gorige, Learned Practicing Company Secretary for the Petitioner and also perused all the materials placed on record based. We have gone through the Company Petition and the submission made by both the parties considered the extant provisions of law.
5. The outstanding amount claimed against the Corporate Debtor is Rs. 8,46,450.70/- along with interest amount of Rs. 3,82,311.20/- together totalling to Rs. 12,28,762/-. The Corporate Debtor has also issued Demand Notice dated 17.07.2018 under Section 8 of the I&B Code, 2016, to which the Corporate Debtor has not given any reply.
6. The Operational Creditor has also filed the Affidavit dated 21.08.2018 in compliance of the provisions of Section 9(3)(b) of the I&B Code, 2016 deposing therein that the Corporate Debtor has not raised any dispute in respect of the outstanding debts. The Bank certificate has also been placed on record wherein it has been stated that the account has been verified, and as per the submissions of the Counsel for the Operational Creditor no payment has been made by the Corporate Debtor. Further, the Operational Creditor has filed Confirmation of Accounts, wherein the Corporate Debtor vide its seal and a signature dated 11.05.2018 has confirmed an outstanding payment of Rs. 8,46,450/-.
7. From the documents placed on file and the arguments submitted by the Learned PCS for the Operational Creditor, this Bench is satisfied that the Corporate Debtor defaulted in making payment of the outstanding debt claimed by the Operational Creditor. Thus, the



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Petition filed under Section 9 of I&B Code, 2016 is complete and there are no disciplinary proceedings pending against the proposed resolution professional, Mr. Shivadutt Bannanje bearing IP Registration No. IBBI/IPA-002/IP-N00266/2017-2018/10779 pursuant to the written confirmation provided by the proposed resolution professional in Form-2 under Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Therefore, we are of the *prima facie* view that the present petition deserves to be admitted and to initiate CIRP.

8. In view of the above facts and circumstances of the case, and by exercising Powers conferred on the Adjudicating Authority U/s 9(5)(i) and other extant provisions of IBC 2016; the following orders are passed:

- i. The Company Petition is hereby admitted by initiating CIRP in respect of M/s Orijean Private Limited.
- ii. Mr. Shivadutt Bannanje, Insolvency Resolution Professional having address at 228, Classic Orchids, Behind Meenakshi Temple, Bannerghatta Road, Bangalore - 560076, bearing IP Registration No. IBBI/IPA-002/IP-N00266/2017-2018/10779, who is a qualified Resolution Professional, is hereby appointed as IRP (Interim Resolution Professional) in respect of the Corporate Debtor to carry on the functions as mentioned under the IBC, 2016 and various rules issued by the IBBI from time to time.
- iii. The following moratorium is declared prohibiting all of the following viz., (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 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 Securitization 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.


- iv. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- v. 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.
- vi. The order of moratorium shall have effect from **the date of this Order** till the completion of the corporate insolvency resolution process;
- vii. The public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.
- viii. The IRP should follow all extant provisions of IBC, 2016 and the rules including fee rules as framed by the IBBI. The IRP is directed to file his report in the Tribunal from time to time;
- ix. The Board of Directors and all the staff of the Corporate Debtor are hereby directed to extend full co-operation to the IRP, and in



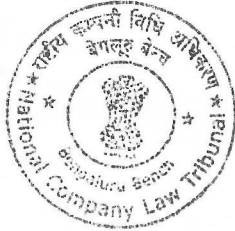
carrying out his functions as such under the IBC, 2016 and the rules made by the IBBI.

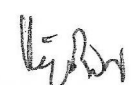
x. The IRP is further directed to strictly adhere to the time schedule as mentioned under the Code and he is directed to file progress reports from time to time to the Tribunal.

9. Post the case for submission of the report of the IRP on **06th September, 2019.**

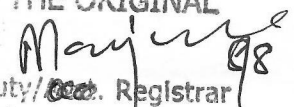

(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

KR




(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

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OF THE ORIGINAL**


Deputy/Sec. Registrar
National Company Law Tribunal
Bengaluru Bench

