

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, NEW DELHI
COURT-III

Item 117
CP (IB-2602(ND)/2019

IN THE MATTER OF:

M/s. Redhex IT Solutions Private Limited

.... Operational creditor

Versus

M/s. India Stuff yarn Limited

.... Corporate debtor

SECTION

U/s 7 IBC Code, 2016

Order delivered on 11.03.2021

CORAM:

CH. MOHD. SHARIEF TARIQ, MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

PRESENT:

For the Applicant/OC : Ms. Sonam Malik, Advocate.

For the Respondent/CD : Ex-parte.

ORDER

(Through Video Conference)

1. The Learned Counsel for the Operational Creditor is present. As seen from the previous order dated 21.01.2021, *there is no representation on behalf of the Corporate Debtor. Matter stands adjourned for their presence.* However, even

today there is no representation on behalf of CD. It appears that the Corporate Debtor is not interested to persue the matter. Therefore, the Corporate Debtor is proceeded *ex parte*.

2. Under Consideration is an application CP (IB)-2602(ND)/2019 filed under Section 9 of the IBC, 2016 with the prayer to initiate CIR Process against the Corporate Debtor viz, *M/s. India Stuff yarn Limited*, declare the Moratorium and appoint the Interim Resolution Professional on account of default in making payment of the debt, the detail of which is recorded herein below.
3. It is submitted by the Learned counsel for the Operational Creditor that the total amount of debt is Rs. 7,37,500/- which due and payable at the time of filing the present petition on 10.10.2019. It is also submitted that the Operational Creditor has rendered the office management services to the Corporate Debtor and raised the invoice(s) but the Corporate Debtor failed to make the payment. The invoice dated 05.05.2019 for an amount of Rs.7,37,500/- is placed on record. In support of the invoice the ledger account is placed on record. Further, the confirmation of account dated 31.05.2019 is enclosed with the petition.
4. The Operational Creditor has sent the demand notice on 25.07.2019 wherein the amount of invoice is mentioned to which no reply was given by the Corporate Debtor. However, the Corporate Debtor has filed reply on 20.01.2021 wherein under Para 5, it is submitted that the Corporate Debtor was willing to pay the amount for the services availed but was unable to pay the said amount. The same is reiterated in Paras 6, 7 & 8 in the reply filed by the Corporate Debtor.
5. The Operational Creditor has filed an affidavit in compliance of Section 9(3)(b), wherein it is deposed that no notice has been received from the Corporate Debtor of any dispute till the issuance of the demand notice. The documents placed on case file are sufficient to establish the default on the part of the Corporate Debtor in relation to the unpaid operational debt.

The Operational Creditor has also proposed the name of Resolution Professional viz, **Mr. Mohd. Nazim Khan, registered with IBBI having Registration No: IBBI/IPA-002/IP-N00076/2017-2018/10207 Address: MNK & Associates Company Secretaries, G-41, Ground Floor, West Patel Nagar, New Delhi-110008, Email: nazim@mnkassociates.com and Mobile No: 9818156340.**

As per the consent letter, no investigation is pending against the Resolution Professional and he agreed to accept the assignment as Interim Resolution Professional in the matter. Therefore, all the legal requirements are fulfilled, the application is **admitted** and the CIRP is initiated against the Corporate Debtor viz., *M/s. India Stuff yarn Limited* and Mr. Mohd. Nazim Khan is hereby **appointed** as IRP.

6. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -

- (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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.


7. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

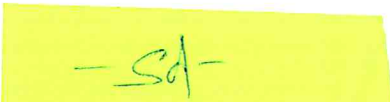
8. We hereby direct the Operational Creditor to pay a sum of Rs. 2, 00,000/- to the IRP upon filing necessary declaration Form, to meet out the initial expenses to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

9. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

10. The Learned Counsel for the Operational Creditor and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. The IRP is directed to communicate this Order to the Corporate Debtor, and the concerned RoC.

11. The Order is dictated and pronounced in open court through video conferencing in the presence of Learned Counsel for the Operational Creditor.


(NARENDER KUMAR BHOLA)
Member (Technical)


(CH. MOHD. SHARIEF TARIQ)
Member (Judicial)

Shammy
Court-III