

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

CP (IB) No.1427/MB.II/2019

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

In the matter of

Hirfal Interior, a partnership firm
represented by its partner,

Mr Hiren Shashikant Vora

...Operational Creditor

Versus

Salasar Enterprises Private Limited

[CIN: U45100MH2004PTC145669]

... Corporate Debtor

Order pronounced on : 15.10.2020

Coram:

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

Mr. Ravikumar Duraisamy : Member (Technical)

Appearances:

For the Operational Creditor : Dr SK Jain, Practising Company
Secretary a/w Mr Yahya
Batatawala, Advocate i/b S.K.
Jain & Co Practising Company
Secretaries.

For the Corporate Debtor : Mr Rajesh Pramodkumar Sharma,
Director of the Corporate Debtor,
in person.

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 Hirfal Interior, a partnership firm represented by its Partner, Mr Hiren Shashikant Vora (*Operational Creditor*) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Salasar Enterprises Private Limited (*Corporate Debtor*).
2. The Corporate Debtor is a private company limited by shares and incorporated on 13.04.2004 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Mumbai. Its CIN is U45100MH2004PTC145669. Its registered office is at A-607 (6th Floor), Express Zone, Western Express Highway, Near Patel Aluminium, Malad (East), Mumbai 400097, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 08.04.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹29,83,876.00 (Rupees twenty-nine lakh eighty-three thousand eight hundred and seventy-six only) as principal as on 13.06.2014, which is stated to be the date of default.
4. The case of the Operational Creditor is that they provided civil and interior work to the Corporate Debtor for a project named “Lubrizon” and raised a singular invoice No.Hirfal/SEPL/12-13/038 on 25.03.2013 for a total sum of ₹45,74,059/- After accounting for part payments, there is a total sum of ₹29,83,876/-, and the same has been confirmed by the Corporate Debtor *vide* confirmation of balances as at 31.03.2014, 31.03.2015, 31.03.2016, 31.03.2017 and 31.03.2018.

5. The single Invoice has been placed on record at p.16. The invoice does not provide for interest in case of delayed payments. Bank statements are attached as Exhibit 'C' at pp.33-52. The total debt due and payable to the Operational Creditor is ₹29,83,876.00 (Rupees twenty-nine lakh eighty-three thousand eight hundred and seventy-six only), as mentioned at page 6 of the Petition.
6. The Operational Creditor had served a Demand Notice in Form 3 dated 01.03.2019 to the Corporate Debtor (*Exhibit 'B', pp.12-15*) in terms of section 8 of the IBC. The Corporate Debtor has not replied to the Demand Notice. Necessary affidavit of No Dispute in terms of section 9(3)(b) of the IBC has been annexed (*Exhibit 'E' at pp.56-57*).
7. Mr Rajesh Pramodkumar Sharma, Director of the Corporate Debtor appeared on behalf of the Corporate Debtor in person and made his submissions.
8. In its reply dated 18.11.2019, the Corporate Debtor has submitted that it is not carrying on any business and is not in a position to make any payments (*para 4 at page 2 of the Reply*). This position was reiterated in oral submissions by Mr Rajesh Pramodkumar Sharma, Director of the Corporate Debtor who appeared in person.
9. We have heard the arguments of both sides and perused the records.
10. It is noted that affidavit in reply dated 18.11.2019 of the Corporate Debtor, admits the liability and states that the Corporate Debtor is not in position to repay the debt. This establishes the existence of debt and default. There is no pre-existing dispute.
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 Ms Nishi Jain, Registration No.IBBI/IPA-001/IP-P01662/2019-20/12664, having address at A-102, Krishna Tower, Ashok Nagar, Kandivali (East), Mumbai 400 101 [email: csnishijain@gmail.com; Mobile: 98339-73382, as the Interim Resolution Professional of the Corporate Debtor. She has filed her written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, and she also has the Authorisation for Assignment given by her IPA.
13. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing CP (IB) No.1427/MB.II/2019 filed by Hirfal Interior, 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 Salasar Enterprises Private Limited [CIN: U45100MH2004PTC145669], 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) Ms Nishi Jain, Registration No.IBBI/IPA-001/IP-P01662/2019-20/12664, having address at A-102, Krishna Tower, Ashok Nagar, Kandivali (East), Mumbai 400 101 [email: csnishijain@gmail.com; Mobile: 98339-73382], is hereby appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The IRP shall carry out her functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of 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).
- (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 IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP of the Corporate Debtor.
- (i) The Operational Creditor shall deposit a sum of ₹1,00,000/- (Rupees one 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).

- (j) 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 serve a copy of this order on the Corporate Debtor and also on the IRP by all available means.
- (k) 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)

15.10.2020

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