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IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

CP/IB/327(CHE)/2021

(Filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of *Godspeed Clothing Private Limited*

Supreme Nonwoven Industries Private Limited

Plot No 110, 8th Floor, 16th Road
Chembur, Mumbai-400071

... Operational Creditor

-Vs-

Godspeed Clothing Private Limited

D.No.6, VGP Santhosham Nagar,
Ponnammanmedu Madhavaram,
Chennai – 600 110

...Corporate Debtor

Order Pronounced on 13th June 2023

Present:

For Operational Creditor : Ankit Anandraj Shah, Advocate

For Corporate Debtor : Ex-Parte

CORAM :

JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT

SAMEER KAKAR, MEMBER (TECHNICAL)

ORDER

(Hearing Conducted through VC)

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

Under Adjudication is CP/IB/327(CHE)/2021 that has been filed
by **Supreme Nonwoven Industries Private Limited** (hereinafter



referred to as '**Operational Creditor**') under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'IBC, 2016') r/w Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against **Godspeed Clothing Private Limited** (hereinafter referred to as '**Corporate Debtor**'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. Part I of the application, sets out the details of the Operational Creditor from which, it is evident that the Operational Creditor is a Company incorporated under the Companies Act, 1956. As per Part II of the application, the Corporate Debtor is a Private Limited Company with Corporate Identification Number U17120TN2014PTC098580 and registered office of the Corporate Debtor as per the Application is stated to be at D.No.6, VGP Santhosham Nagar, Ponniammanmedu, Madhavaram, Chennai – 600 110. As per Part III of the application, the Operational Creditor has not proposed the name of the Interim Resolution Professional and left it to the discretion of this Tribunal to appoint the same.

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3. Part IV of the application signifies the amount of debt to the tune of Rs.12,32,769 /- (Rupees Twelve Lakh Thirty Two Thousand Seven Hundred and Sixty Nine only) as the outstanding dues that is payable by the Corporate Debtor. The Principal debt claimed amounts to Rs. 10,66,400/- (Rupees Ten Lakh Sixty Six Thousand Four Hundred Only) with the interest of 12% p.a as on 30.04.2019 and the interest amounting to 1,66,369 (Rupees One Lakh Sixty Six Thousand Three Hundred and Sixty Nine only) .

4. Part V of the application describes the particulars of Operational Debt, documents, records and evidence of default as described below:

- i) Copy of ledger account for the period from 01.04.2017 to 30.04.2019 is annexed as Annexure P-1
- ii) Copy of the Purchase order Form dated 17.09.2017 being PO No: PO/917/25 sent by the Debtor to the Creditor is annexed as Annexure P-2
- iii) Copy of the Purchase order Form dated 29.09.2017 being PO No: 917/66 sent by the Debtor to the Creditor is annexed as Annexure P-3
- iv) Copy of the Purchase order Form dated 29.09.2017 being PO No: 917/67 sent by the Debtor to the Creditor is annexed as Annexure P-4
- v) Copy of the Invoice No.2401104352 dated 14.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 5
- vi) Copy of the Invoice No.2401104396 dated 16.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 6
- vii) Copy of the Invoice No.2401104487 dated 18.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 7
- viii) Copy of the Invoice No.2401104667 dated 26.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 8.



- ix) Copy of the Invoice No.2401104669 dated 26.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 9.
- x) Copy of the Purchase order Form dated 26.10.2017 being PO No: 1017/27 sent by the Debtor to the Creditor is annexed as Annexure P- 10
- xi) Copy of the Invoice No.2401104889 dated 31.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 11
- xii) Copy of the Invoice No.2401104891 dated 31.10.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 12
- xiii) Copy of the Invoice No.2401105087 dated 04.11.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 13
- xiv) Copy of the Purchase order Form dated 07.12.2017 being PO No: 1217/3 sent by the Debtor to the Creditor is annexed as Annexure P-14
- xv) Copy of the Invoice No.2401106717 dated 11.12.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 15
- xvi) Copy of the Invoice No.2401106813 dated 13.12.2017 sent by the Creditor to the Debtor is annexed as Annexure P- 16
- xvii) Copy of an email dated 17.05.2018 sent by the Debtor to the Creditor is annexed as Annexure P- 17
- xviii) Copy of an email dated 29.08.2018 sent by the Creditor to the Debtor is annexed as Annexure P- 18
- xix) Copy of an email dated 30.08.2018 sent by the Debtor to the Creditor is annexed as Annexure P- 19
- xx) Copy of an email dated 06.09.2018 sent by the Creditor to the Debtor is annexed as Annexure P- 20
- xxi) Copy of an email dated 25.09.2018 sent by the Debtor to the Creditor is annexed as Annexure P- 21
- xxii) Copy of the Demand Notice dated 11.05.2019 in Form 3 under the Insolvency and Bankruptcy Adjudicating (Application to Authority) Rules, 2016 sent by the Creditor to the Debtor alongwith the Speed Post receipt and Delivery Report is annexed as Annexure P- 22



5. It was submitted that the statutory Demand notice, Form 3 as mandated under the IBC, 2016 was sent by the Operational Creditor to the Corporate Debtor on 11.05.2019, demanding the outstanding dues amounting to Rs. 12,32,769 /- (Rupees Twelve Lakh Thirty Two Thousand Seven Hundred and Sixty Nine only) along with 12% interest per annum. The Corporate Debtor herein has not replied to the demand notice.

6. It was submitted by the Ld. Counsel for the Applicant that, the Applicant herein had supplied Textile Nonwoven textile to the Corporate Debtor as per the Purchase order and placed several invoices.

7. The Respondent has not filed any counter and no representation is seen on behalf of the Respondent. It is seen that vide order dated 03.03.2023 records as Registry notice has been returned as un-served to the Respondent.

8. Thereafter, it is seen that there was no representation on behalf of the Corporate Debtor and hence this Tribunal by its order dated 11.04.2023 has set the Corporate Debtor as *ex-parte*.

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9. Heard the submissions and perused all the records placed before us. It is seen from the submissions that, the Principal amount claimed is 10,66,400/- (Rupees Ten Lakh Sixty Six Thousand Four Hundred Only) and the interest amount claimed is Rs.1,66,369/- (Rupees One Lakh Sixty Six Thousand Three Hundred and Sixty Nine only) for the interest rate of 12% p.a.. From the submissions made by the Learned Counsel for the Applicant *prima facie* it is seen that the present application has been filed only on 09.02.2021 and the total debt amount is falls below the threshold limit.

10. The Total debt amount claimed is Rs.12,32,769/-(Rupees Twelve Lakh Thirty Two Thousand Seven Hundred and Sixty Nine only). However the, said amount of Rs. 12,32,769/-(Rupees Twelve Lakh Thirty Two Thousand Seven Hundred and Sixty Nine only) is below the pecuniary limit fixed by the Central Government. The Relevant portion of the Notification, S.O 1205(E) dated 24.3.2020 issued by the Ministry of Corporate Affairs, Government of India, is extracted below,

“S.O. 1205(E).—In exercise of the powers conferred by the proviso to section 4 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby specifies one crore rupees as the minimum amount of default for the purposes of the said section.”



11. Further the Hon'ble NCLAT in the case of **Jumbo Paper Products -Vs- Hansraj Agrofresh Pvt. Ltd. Company Appeal (AT) (Ins) No. 813 of 2021**, has clearly affirmed that the threshold limit to file under the IBC after the said notification S.O 1205(E) dated 24.3.2020 is Rs. 1 crore.

"It is seen that notification dated 24.3.2020 (supra) makes it unambiguously clear that the threshold limit to be considered for section 9 application will be Rs. 1 crore. This threshold limit will be applicable for application filed u/s 7 or 9 on or after 24.3.2020 even if debt is of a date earlier than 24.3.2020."

12. In view of the discussions above regarding the pecuniary jurisdiction, as the amount claimed in default is less than Rs. 1 Crore. This Tribunal is unable to entertain this petition. Hence **CP/IB/327/CHE/2021** is hereby **dismissed**. No order as to costs.

v Sd -

SAMEER KAKAR
MEMBER (TECHNICAL)

M
- Sd -

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT