

NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

IB-1285(ND)2019

In the matter of

**M/s. Bindals Merchandise
Registered Office
6th KM, Bhopa Road
Muzaffarnagar
Uttar Pradesh - 251001**

.....Operational Creditor

V/s

**M/s. Three Platinum Softech (P) Ltd.
Registered Address:
B - 231, Okhla Industrial Area,
Phase - I, New Delhi - 110020**

Also at:

**Three Plantinum Softech (P) Ltd.
Plot No. GH 1/C, Sector 107,
GB Nagar, Noida**

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 07.08.2019

Coram:

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SH. L. N. GUPTA, HON'BLE MEMBER (T)**

Present:

**Mr. Mrinal Harsh Vardhan, Advocate for
the Petitioner
Respondent proceeded ex parte**

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

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[Dilshad]

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1. This petition has been filed invoking Section 9 of the Insolvency and Bankruptcy Code, 2016.
2. As per averments the petitioner herein had supplied material being MS Bar (TMT). An invoice dated 02.02.2017 in the sum of Rs. 10,95,000/- dated 02.02.2017 was raised on the Corporate Debtor which has not been remitted despite repeated requests and reminders. The Corporate Debtor however, in acknowledgment of outstanding liability, and in a bid to re-pay the same issued a cheque bearing No. 010394 drawn on Bank of Maharashtra dated 19.05.2017 for the aforesaid amount. This cheque on being presented was dishonored.
3. In view of the total in-action of the Corporate Debtor to remit the outstanding liability, the Operational Creditor issued a demand notice dated 1st April, 2019 which despite being delivered was not replied to. Claiming the principal amount as well as interest accruing thereon in terms of conditions printed on the invokes.
4. The Operational Creditor has now filed the present petition seeking Corporate Insolvency Resolution Process of the Corporate Debtor. The petition has been filed in the required format together with statutory compliances. Upon notice being issued by the Bench none has appeared on behalf of the Corporate Debtor. They were therefore proceeded ex-parte.

5. Given the fact that the submissions made by the Operational Creditor remain undemolished, the petitioner is entitled to the prayer made herein. The issuance of cheque for the aforesaid amount and its consequent dishonour is in itself an admission of a liability which the Corporate Debtor is unable to liquidate.
6. Accordingly, the prayer made in the petition merits consideration and is Admitted. A moratorium in terms of Section 14 of the Code comes into effect forthwith, staying:

“(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 the 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.

Further,

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

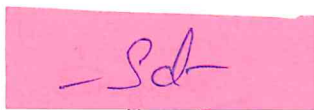
(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(4) Further, the order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

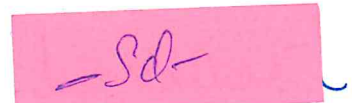
“Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall

cease to have effect from the date of such approval or liquidation order, as the case may be.”

7. The petitioner/Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint Mr. Rajendra Kumar, Registration No. IBBI/IPA-01/IP-P00461/2017-18/10804, email: Rajendra.singhania@gmail.com Mobile No. 7678514729 duly empanelled with the IBBI as an IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17,18,20 and 21 and file his report.
8. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be duly accounted for the IRP and shall be reimbursed by the COC to the Operational Creditor to be recovered as CIR costs.
9. Copy of the order be communicated to both the parties as well as to the IRP.
10. To come up for further consideration on 20th September, 2019.



(L. N. GUPTA)
Member (T)



(Ina Malhotra)
Member (J)