



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT-1

ITEM NO. 203
C.P.(IB) No. 187(AHM)2022

Order under section 9 IBC

IN THE MATTER OF :

Milo Tile LLP

....Applicant

V/s.

Adoration Ceramica Pvt. Ltd.

....Respondent

Order delivered on: 03/07/2023

Coram:

Mr. Shammi Khan, Hon'ble Member (J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member (T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH (COURT-I)**

CP (IB) No.187/AHM/2022

(Application 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:

M/s. Milo Tile LLP

Represented through its
Authorized Partner
Mr. Milankumar Bhalodia (DP)
Registered office at:
Revenue Survey No. 76,
Rafaleshwar Road, B/h. Shivam Estate,
Jodhpar Nadi-363641,
Morbi Rajkot, Gujarat-363641.
LLPIN: AAN-0417

**Applicant/
Operational Creditor**

VERSUS

**M/s. Adoration Ceramica
Private Limited,**

Registered office at:
Survey No. 43, At: Virpar,
Tal. Wakaner, Morbi, Rajkot,
Gujarat- 363621
CIN: U26990GJ2017PTC095964

**Respondent/
Corporate Debtor**

**Order reserved on: 19.06.2023
Order pronounced on: 03.07.2023**

**CORAM: SHAMMI KHAN (Member Judicial)
KAUSHALENDRA KUMAR SINGH (Member Technical)**



APPEARANCE:

For the Applicant/Operational Creditor: Mr. Vinit Nagar, PCS

For the Respondent/Corporate Debtor: None

ORDER

1. The instant Application is filed on 29.06.2022 by **M/s. Milo Tile LLP** (Applicant/ Operational Creditor) through its designated partner Mr. Milankumar Bhalodia, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 claiming to be an Operational Creditor for initiation of Corporate Insolvency Resolution Process (CIRP) against **M/s. Adoration Ceramica Private Limited** (Respondent/Corporate Debtor) for making default in payment of outstanding amount of Rs.1,92,40,185/- (Rupees One Crore Ninety-Two Lakh Forty Thousand One Hundred and Eighty Five only).
2. The Corporate Debtor was incorporated on 27th February, 2017 under the Companies Act, 2013. The registered office of the Corporate Debtor is situated at Survey No. 43, At: Virpar, Tal. Wakaner Morbi Rajkot, Gujarat-363621. Therefore, this Bench has jurisdiction to deal with this Application.
3. Briefly, the facts of the case as mentioned in the Application and submitted by the Ld. Counsel are that the Applicant/Operational Creditor was engaged in the business of supply of various types of Ceramic Glaze and supplied Ceramic Glaze to Respondent/Corporate Debtor from 15th August, 2019 to 22nd November, 2019, against which the Applicant/Operational Creditor has timely issued invoices and the same was received by the



Respondent/Corporate Debtor without any dispute.

4. The Ld. Counsel for the Applicant/Operational Creditor submitted that the Respondent/Corporate Debtor made payment either in advance or against the invoices raised pursuant to supply. Subsequently, the Respondent/Corporate Debtor made payment on account basis and part of the unpaid amount was adjusted against the purchase of 'Vitrified Tiles' from the Respondent/Corporate Debtor.
5. The Ld. Counsel for Applicant/Operational Creditor further submitted that two (2) cheques dated 5th March, 2021 amounting to Rs.50,00,000/- each and two (2) cheques dated 28th February, 2022 amounting to Rs.50,00,000/- and 42,00,000/- were issued by Respondent/Corporate Debtor. However, said cheques were dishonoured. The last payment from Respondent/Corporate Debtor was received on 28th January, 2021 and thereafter, no payment has been received against the supply made. A computation of unpaid operational debt in default is enclosed with this Application as Exhibit-9 (Pg 78-80).
6. The Ld. Counsel submitted that despite repeated requests and reminders the Respondent/Corporate Debtor failed to pay the outstanding amount and did not ever raise any dispute with regard to the said outstanding amount. Subsequently, the Applicant/Operational Creditor served a demand notice dated 13th April, 2022 upon the Respondent/Corporate Debtor under Section 8 of the Code which was sent to Respondent/Corporate Debtor through email dated 16th April, 2022 and also through post which was delivered on 2nd May, 2022.



7. The Respondent/Corporate Debtor replied to said demand notice vide email dated 23rd April, 2022 wherein the contents of Demand Notice as well as claims raised therein are denied stating that nothing is due and payable. The Applicant/Operational Creditor through its legal advisor replied to the said email wherein Respondent/Corporate Debtor was asked to produce any record that demonstrates payment received by Applicant/Operational Creditor and request was made to make the payment in default failing which CIRP and other necessary legal action would be initiated against the Respondent/Corporate Debtor. Thereafter, the Respondent/Corporate Debtor neither replied nor made any payment towards outstanding dues. Therefore, the Applicant/Operational Creditor filed Application under section 9 of the Code.
8. On issuance of the notice, the Respondent/Corporate Debtor appeared and sought time to file Vakalatnama and reply. However, neither Vakalatnama nor reply was filed by the Respondent/Corporate Debtor. Therefore, this Adjudicating Authority vide order dated 29.11.2022 directed to proceed without reply.
9. We have heard the learned counsel for the Applicant/Operational Creditor and have perused the material available on record. It is noted that the Applicant/Operational Creditor has supplied Ceramic Glaze to the Respondent/Corporate Debtor from 15th August, 2019 to 22nd November, 2019 for which the invoices were raised timely. It is also noted that the Applicant/Operational Creditor has placed on record the invoices along with the e-Way Bill which indicates that the said items were delivered to and accepted by the Respondent/Corporate Debtor. The



Applicant/Operational Creditor in the present Application has claimed an amount of Rs.1,92,40,185/-.

10. Further, the Respondent/Corporate Debtor has replied to the demand notice dated 13th April, 2022 issued U/s 8 of the Code by the Applicant/Operational Creditor and pursuant to the filing of this Application the Respondent/Corporate Debtor appeared and sought time from this Adjudicating Authority to file vakalatnama and to file a reply to the Application. The time was granted by this Adjudicating Authority vide order dated 14.09.2022 to the Respondent/Corporate Debtor. However, the Respondent/Corporate Debtor failed to file the same. Therefore, this Adjudicating Authority vide order dated 29.11.2022 directed to proceed without reply.
11. The claim of the Applicant/Operational Creditor stands established as there is a default in payment of the amount due to the Applicant/Operational Creditor and the issuance of cheque indicates acknowledgment of the debt although the cheque was dishonoured for the reason "payment stopped by drawer". The existing default amount is of more than **rupees one crore** which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present Application. The Application is otherwise defect-free & on record and the same deserves to be admitted.
12. The Applicant/Operational Creditor did not suggest the name of any Resolution Professional (RP) for appointment as Interim Resolution Professional (IRP). Therefore, we will appoint one from the list provided to us by IBBI.
13. In view of the facts as discussed hereinabove, it is held that, the



Respondent/Corporate Debtor has defaulted in the payment of its debts. Accordingly, we admit this Application and order as under:-

- (i) The Application bearing **CP(IB)/187/(AHM)/2022** filed by **M/s. Milo Tile LLP** (Applicant/Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **M/s. Adoration Ceramica Private Limited** (Respondent/Corporate Debtor) is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
- (a) *the institution of suits or continuation of pending suits or proceedings against the Respondent/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 Respondent/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 Respondent/Corporate Debtor in respect of its property including any action under the Securitisation 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 Respondent/Corporate Debtor.*
- (ii) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency



Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Respondent/Corporate Debtor Company under Section 33 of the IBC, 2016, as the case may be.

- (iii) We hereby appoint **Mr. Nandish Sunilbhai Vin** having Registration No. IBBI/PA-001/IP-P02117/2020-2021/13270, E-mail Id ip.nandish.vin@gmail.com to act as an IRP under section 13(1) (c) of the Code. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w. Regulation made thereunder.
- (iv) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Respondent/Corporate Debtor, its Promoter or any other person associated with management of the Respondent/Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Respondent/Corporate Debtor, its Promoter or any other person, is required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (v) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency



Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.

- (vi) The IRP is expected to take full charge of the Respondent/CD's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (vii) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Respondent/Corporate Debtor.
- (viii) It is further directed that the supply of goods/services to the Respondent/Corporate Debtor Company if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Respondent/Corporate Debtor Company as a going concern as a part of the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- (x) The Applicant/Operational Creditor is directed to pay an advance of **Rs.1,00,000/- (Rupees One Lakh Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of the Corporate Insolvency Resolution Process (CIRP) and IRP to file proof



of receipt of such amount to this Adjudicating Authority along with First Progress Report within 30 days.

- (xi) The Registry is directed to communicate a copy of this order to the Applicant/Operational Creditor, the Respondent/Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Respondent/Corporate Guarantor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- (xii) The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

14. Accordingly, **CP(IB) 187 of 2022** is allowed and disposed of. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-Sd-
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)

Arati-LRA