

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

IB-3105/(ND)/2019

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

PPG ASIAN PAINTS PRIVATE LIMITED

Having its office at: -

Paville House, Near Twin Towers
Off Veer Savarkar Marg, Prabhadevi
Mumbai 400025.

...Operational Creditor/Petitioner

VERSUS

HARSH SPECIALITY COATING PRIVATE LTD.

Having its Registered office at: -

34, Babar Lane,
Bengali Market
New Delhi- 110001.

...Corporate Debtor/Respondent Company

Order Delivered on: 12.02.2021

Coram:

Shri. P.S.N. PRASAD

Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ

Hon'ble Member (Technical)

Counsel for Operational Creditor: Mr.Piyush Singh, Advocate.



ORDER

As per P.S.N. PRASAD, Hon'ble Member (Judicial)

1. This is a petition filed by PPG ASIAN PAINTS PRIVATE LIMITED (Operational Creditor) seeking to initiate CIRP against the Respondent company /Corporate Debtor HARSH SPECIALITY COATING PRIVATE LTD, under Section 9 of IBC 2016 for the alleged default on the part of the Corporate Debtor for an amount 1,55,66,495/- along with the interest component towards the goods supplied.
2. It is the case of the applicant that the Corporate Debtor approached the Operational Creditor for supply of certain quantities of paints to be used as part of its business. The operational creditor agreed to supply paints to the Corporate Debtor, and accordingly, several quantities of paints was supplied to the Corporate Debtor and the invoices against the said supply was raised by the Operational Creditor.
3. It is submitted that the Corporate Debtor vide its letter dated 26.09.2018 has confirmed the balance outstanding in the books of the Operational Creditor and has accordingly, confirmed the principal amount of Rs. 1,64,51,125/-. Being due as balance payment as on 30.06.2018.
4. Pursuant to the said confirmation, the corporate debtor has made certain payments, however, there is still an outstanding of Rs. 1,55,66,495/- in the

books of the operational creditor which the Corporate debtor is liable to pay to the Operational Creditor.

5. The last payment of Rs. 20,000/- on 28.11.2018 was made by the corporate debtor.
6. Despite several opportunities none appeared on the behalf of Corporate Debtor. Hence there were proceeded ex-parte vide order date 04.01.2021 of this Tribunal.
7. Heard the parties and perused the documents.
8. There is no dispute that the services were provided by the applicant to the corporate debtor. Additionally, the letter dated 26.09.2018 as annexed as Annexure-6 of the petition and it shows the confirmation on the part of corporate debtor regarding the amount debt and default on the part of corporate debtor and the same read as "*we request you to confirm that the balance according to our books of 16,451,125.87. as on 30 June 2018 is correct*". Additionally, no one present on the behalf of Corporate Debtor at the time of final hearing of the matter. The Corporate Debtor has not shown adequate interest to defend the claim filed against him. The applicant has placed sufficient evidence in support of his claim. Going by the above details the operational creditor has clearly established the existence of debt and default on the part of the corporate debtor. Hence this Tribunal initiates CIRP on the corporate debtor with immediate effect.

9. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

“(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;

(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.



- (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) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.”

10. The Operational Creditor has proposed the name of Mr. Romesh Chandra Sawhney for appointed as an IRP in part III of the application. Accordingly, we appoint Mr. Romesh Chandra Sawhney Registration No. IBBI/IPA-001/IP-P00274/2017-18/10518 email- casawhney@yahoo.co.in duly empanelled with the IBBI as the IRP. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days.

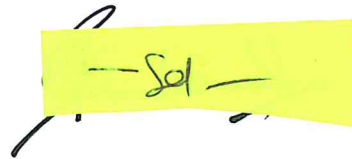
11. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to meet the immediate expenses of IRP. The same shall be fully accounted

by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIRP costs.

12. The office is directed to communicate a copy of the order to the Operational Creditor, the corporate debtor and the Interim Resolution Professional at the earliest possible but not later than seven days from today.



(DR. V.K. SUBBURAJ)
MEMBER (TECHNICAL)



(P.S.N. PRASAD)
MEMBER (JUDICIAL)