

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

CP (IB) No.72/9/NCLT/AHM/2018

Coram: Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 10.11.2020

Name of the Company:

Ramniklal S Gosalia & Co
V/s
Sterling Lam Ltd

Section:

Section 9 of the Insolvency & Bankruptcy Code ,2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 10th day of November, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) No.72/9/NCLT/AHM/2018

In the matter of:

Mr. Ramniklal S. Gosalia & Co.
National House, 608 B J Marg,
Jacob Circle,
Mumbai – 400011.

... Petitioner/Operational Creditor

V/s.

M/s. Sterling Lam Limited,
Block No.123,
At & Po. Mahiyal,
Ta. Talod, Dist: Sabarkantha,
Gujarat – 383215.

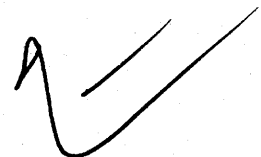
... Respondent/Corporate Debtor

Order delivered on 10th November, 2020

**Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)**

Appearance:

Learned Counsel Ms. Prachiti Shah appeared for the Operational Creditor. None for the Corporate Debtor.



ORDER

[Per: Mr. Madan B. Gosavi, Member (Judicial)]
(Through Video Conferencing)

1. M/s. Ramniklal S. Gosalia & Co, a registered partnership firm has filed this application under Section 9 of the Insolvency and Bankruptcy Code, 2016 against M/s. Sterling Lab Limited, the Corporate Debtor to start the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor on the ground that the Corporate Debtor committed default in paying operational debt of Rs.1,12,41,485/- + interest there on.
2. The Operational Creditor states that in between 30.05.2017 to 31.08.2017, it has sold and supplied the Corporate Debtor the goods i.e. "Phenol". It raised the invoices. At the foot of account, the Corporate Debtor was liable to pay a total sum of Rs.1,21,22,849/- to the Operational Creditor. In spite of repeated demands, the Corporate Debtor failed and neglected to pay the debt and committed a default. Hence, on 26.12.2017, a demand notice under Section 8 of the I.B. Code was delivered to the Corporate Debtor. In spite of receipt of the notice, the Corporate Debtor did not pay nor pointed out any pre-existing dispute. Hence, this application is filed to start the Corporate Insolvency Resolution Process of the Corporate Debtor.

3. The notice of this application was duly served to the Corporate Debtor. One of its Directors appeared through Ld. Advocate, Mr. Ruchit Patel. In spite of repeated opportunities, the Corporate Debtor did not file affidavit in reply. Ultimately, the hearing of application was preceded without reply from the Corporate Debtor.
4. We heard the Learned Counsel for the Operational Creditor. We perused the record and proceeding.
5. The Operational Creditor has produced on record all the invoices raised against the Corporate Debtor. The Operational Creditor stated that it did not receive outstanding amount from the Corporate Debtor. This fact remains unchallenged on record against the Corporate Debtor.
6. The evidence on record shows that the Corporate Debtor has received the notice under Section 8 of the I.B. Code. The Corporate Debtor neither replied the notice pointing out any pre-existing dispute nor made payment of debt amount.
7. The Operational Creditor did not suggest the name of any Resolution Professional for the appointment of Interim Resolution Professional ("IRP") and left the matter to the discretion to this Adjudicating Authority.

8. This application, being defect-free, we admit the Corporate Debtor in Corporate Insolvency Resolution Process under Section 9 of the I.B. Code by following order:

ORDER

1. The Corporate Debtor, M/s. Sterling Lam Limited is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.

2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 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 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 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 corporate debtor.
3. 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 Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
4. We hereby appoint **Mr. Rajendra Jain, having registration no. IBBI/IPA-002/IP-N00732/2018-2019/12353, email: iprajendragjain@gmail.com**, to act as an IRP under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:
5. 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 Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under

Section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person 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.

6. This Adjudicating Authority directs the IRP to make a 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.
7. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
8. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.50,000/- (Rupees Fifty Thousand Only)** to the IRP within two weeks **from the date of this order** for

the purpose of smooth conduct of Corporate Insolvency Resolution Process ("CIRP") and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

9. The Registry is directed to communicate a copy of this order to the Operational Creditor, 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 website immediately after pronouncement of the order.
10. Accordingly, CP (IB) No.72/9/NCLT/AHM/2018 stands admitted.


(Virendra Kumar Gupta)
Member (Technical)


(Madan B. Gosavi)
Member (Judicial)

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