

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-IV

IB-491/(ND)/2020

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:

Montage Global Pvt. Ltd

...Operational Creditor

VERSUS

Himalaya Food International Ltd.

...Corporate Debtor

Coram:

SHRI. DHARMINDER SINGH, Hon'ble Member (Judicial)

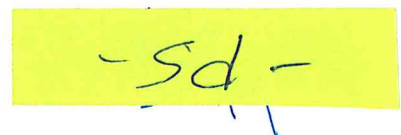
MS. SUMITA PURKAYASTHA, Hon'ble Member (Technical)

Order Delivered on: 01.06.2022

ORDER

PER: SHRI DHARMINDER SINGH, MEMBER (JUDICIAL)

The present Petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Montage Global Pvt. Ltd., with a prayer to initiate the Corporate Insolvency Resolution Process against Himalaya Food International Ltd. (for brevity 'Corporate Debtor').



2. The Corporate Debtor namely, Montage Global Pvt. Ltd. is a Company incorporated on 17.04.2001 with CIN No. U16008DL2001PTC300941 under the provisions of the Companies Act, 1956 having its registered Office at 205, 2nd Floor, V-4, Mayur Plaza-2, Local Shopping Center, Mayur Vihar-I, Delhi East Delhi-110091.
3. It is the case of the applicant that the Operational Creditor used to supply printed/un-printed plastic packaging laminate pouches to the Corporate Debtor.
4. It is submitted by the Operational Creditor that since the Corporate Debtor did not make the due payment with respect to the services rendered by the Operational Creditor, it had issued a Demand Notice dated 18.07.2019 under Section 8 of IBC, 2016 at the registered office of the Corporate Debtor.
5. Since no one appeared on behalf of the Corporate Debtor on 27.04.2022 accordingly the Corporate Debtor was proceeded ex-parte. Even no reply was filed by the Corporate Debtor despite numerous opportunities being given to them to file the same.
6. We have heard the arguments and perused the documents on record. On perusal of the record, it is apparent that Operational Creditor had been selling packaging laminates pouches to the Corporate Debtor since 2015. The Operational Creditor has raised several invoices from 15.11.2015 to 24.06.2017 amounting Rs.7,88,898.86/-. And the demand notice was also duly served to the Corporate Debtor to which he never replied. Hence the applicant succeeded in proving the fact that the above said amount was due against the respondent and the said amount was not paid qua. It has

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been repeatedly held that the Scheme of the code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. Resultantly, since there is no dispute raised by the Corporate Debtor.

7. In view of the foregoing documents and the averments made, this Tribunal is of the affirm view that there was default on the part of the respondent in pursuance of invoices raised on behalf of the applicant, accordingly, the present application stands admitted in terms of Section 9(5) of the Code and CIRP is hereby ordered to be initiated against the respondent Corporate Debtor, forthwith.
8. The applicant has not proposed the name of an IRP; therefore, this bench appoints Mr. Brijender Singh Deswal, as the Insolvency Resolution Professional of the corporate debtor. The registration number of the IRP being IBBI/IPA-003/IP-N00002/2016-17/10021 and email id. brijender@deswal.com IRP above named is appointed subject to the condition that no disciplinary proceedings are pending against him. The specific consent is required to be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and disclosures be made as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016.
9. We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Brijender Singh Deswal to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful

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shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

10. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

11. A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Let copy of the order be served to the parties.

Consign the file to the record room.

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(SUMITA PURKAYASTHA)
MEMBER (T)

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(DHARMINDER SINGH)
MEMBER (J)