

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) No.408/ALD/2018

In the matter of

An application under Section 9 of Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy. (Application to Adjudicating Authority Rules, 2016)

And

In the matter of:

HARSHDEEP INDUSTRIES

A Proprietorship Firm

Through Proprietor Mr. Hargovind Singh Shriram Rajput

Having Registered Office at:

Plot No.335/336, GIDC, Kathwada Road No.6,

Kathwada Ahmedabad - 382430

.....Operational Creditor

Versus

TEXPLAS (INDIA) PRIVATE LIMITED

Having Registered Office at :

Bell Ancillary Estate bell Ranipur Haridwar,

Uttaranchal - 249403

.....Corporate Debtor

Order reserved on 15.02.2022

Order pronounced on : 02.03.2022

Coram :

Sh. Rajasekhar V.K. : Member (Judicial)

Sh. Virendra Kumar Gupta : Member (Technical)

Appearances (via Video Conference)

For Operational Creditor : *Sh. Yogendra Singh, Adv.*

For Corporate Debtor : *None*

ORDER

Per : Sh. Virendra Kumar Gupta, Member (Technical)

Brief Facts Of The Case

1. The present application has been filed by Operational Creditor, namely ***Harshdeep Industries*** under Section 9 of Insolvency & Bankruptcy Code, 2016 (herein after referred to as "IBC, 2016") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against the Corporate

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Debtor, namely *Texplas (India) Private Limited*.

2. In this application, the right to file the reply has been close *vide* order dated 03.06.2019 , thus the corporate debtor had been heard ex-parte. Hence, this matter was reserved after hearing the arguments of Ld. Counsel appearing on behalf of Operational Creditor and material on record.
3. The facts, in brief, are that the operational creditor supplied the goods to the corporate debtor during the period September and October, 2015. The last invoice was raised on October 10th, 2015. The corporate debtor made last payment on 13.10.2015. As per the terms and conditions as mentioned in the invoice, payment without interest is to be made within 30 days and if the payment made thereafter the interest @ 18% is chargeable. The application has been filed on 16.11.2018. Ld. Counsel appearing on behalf of the operational creditor narrated these basic facts.
4. It was contended that notice of demand U/s 8 of IBC, 2016 was delivered on the corporate debtor through speed post as well as through email along with copies of invoices. The Ld. Counsel further pointed out that the affidavit U/s 9(3)(b) was also submitted which clearly showed that the corporate debtor had not raised any issue of pre-existing dispute. As regard to the outstanding amount, it was submitted that the principal sum was of Rs.4,25,082/- along with the balance amount @ 18% interest. As regard to the aspect of limitation, Ld. Counsel submitted that *vide* reply dated 14.07.2016 and 21.09.2016 on behalf of the corporate debtor the outstanding liability and assurance to pay the outstanding dues were made by the corporate debtor. Hence, the application filed in November, 2018 was well within limitation as the limitation got extended because of such acknowledgment of debt by and on behalf of the corporate debtor.
5. We have considered the submissions made on behalf of the operational creditor and material on record.
6. It is noted that the application filed U/s 9 is complete and complies with the requirements of the relevant provisions of IBC, 2016 read with Rules and Regulations made thereunder. The outstanding amount is more than the threshold limit of Rs.1,00,000/- (Rupees One Lakh). The application is also well within the

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limitation. There does not exist any dispute within the meaning of provisions of Section 8 & 9 of IBC, 2016.

7. Thus, the application, on the face of it, is liable to be admitted.
8. Though the operational creditor has proposed the name of IRP, however, during the course of hearing, Ld. Counsel for the operational creditor submitted that now this IRP was not inclined to conduct the assignment. Hence, a duly qualified Insolvency Professional registered with IBBI and eligible for the location of the corporate debtor may be appointed as IRP. Accordingly, we appoint Mr. Dev Vrat Rana [Reg No.IBBI/IPA-001/IP-P02567/2021-2022/13936] from the list of IBBI which is currently in operation for the jurisdiction of this Adjudicating Authority.
9. Accordingly, this application is admitted on the following terms and conditions :-
 - i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor *Texplas (India) Private Limited* is hereby **admitted**.
 - ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
 - iii) This Adjudicating Authority hereby appoint Mr. Dev Vrat Rana [Reg No.IBBI/IPA-001/IP-P02567/2021-2022/13936], having address at Shop No. 5, B.S.M Tiraha, Roorkee, Hari Singh Market, Hardwar, Uttrakhand- 247667 [email: cadevrana@gmail.com], to act as the IRP under Section 13(1)(c) of the Code.
 - iv) The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
 - v) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following :-
 - 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;

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- 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 (54 of 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.
- vi) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- vii) 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.
- viii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- ix) 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 the 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.
- x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi) The Operational Creditor/Applicant is directed to deposit Rs.2,00,000/- (Rupees Two lakh only) with the IRP appointed hereinabove within two weeks from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.
- xii) Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the IRP and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- xiii) List the matter on 12th April, 2022 for filing of the progress report.
- xiv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

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Virendra Kumar Gupta
Member (Technical)

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Rajasekhar V.K.
Member (Judicial)