

BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH AT AHMEDABAD

TP NO. 49 OF 2019 [CP (IB) No. 484/9/NCLT/AHM/2019]

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

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE  
NATIONAL COMPANY LAW TRIBUNAL , INDORE BENCH ON 14.07.2020

Name of the Company: Samunnati Agro Solutions Pvt. Ltd.  
V/s  
Indian Soya Industries pvt. Ltd.

Section: Section 9 of the Insolvency & Bankruptcy Code, 2016

**ORDER**

Learned Counsel Mr. Lalit M. Patel appeared for the Operational Creditor.

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

**The CP(IB) No. 484 of 2019 is allowed.**

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

Dated this the 14<sup>th</sup> day of July, 2020.



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH AT AHMEDABAD**

**TP No. 49 of 2019 [CP (IB) No.484/9/NCLT/AHM/2019]**

(Application for initiating Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016 r.w. Rule 6of the Insolvency & Bankruptcy Code, 2016 (Application to Adjudicating Authority Rules, 2016)

**In the matter of :**

**SAMUNNATI AGRO SOLUTIONS PVT. LTD**

CIN: U74999TN201PTC112925

Baid Hi-Tech park

8<sup>th</sup> Floor, 129-B, East Coast Road,

Thiruvanmiyur, Chennai-600041

..Operational Creditor

Versus

**INDIAN SOYA INDUSTRIES PVT  
LTD.**

CIN: U25110mp1968ptc001038

Plot No. 1 & 2, Sector-B,

Industrial Area, Sanwer Road,

Indore- 452015

Madhya Pradesh

..Corporate Debtor



**Date of Pronouncement of Order 14<sup>th</sup> July, 2020**

**Coram: HON'BLE MR. MADAN B. GOSAVI, MEMBER(J)**

**HON'BLE MR. VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. Lalit M. Patel for the Operational Creditor.

Learned Counsel Mr. Akshat Agrawal for the Corporate Debtor.

**ORDER**

**[Per: HON'BLE MR. MADAN B. GOSAVI, MEMBER (J)]**

1. This Application is filed under **Section 9** of the Insolvency & Bankruptcy Code, 2016 by the Operational Creditor, **Samunnati Agro Solutions Private Limited** to initiate Corporate Insolvency Resolution Process against Corporate Debtor **Indian Soya Industries Private Limited**. The outstanding principal sum has been stated of **Rs.1,05,73,991/-** (Rupees One Crore Five lacs Seventy Three Thousand Nine Hundred Ninety One Only).

2. The brief facts of the case are as under :

1) The Operational Creditor stated that in pursuance to purchase orders of the Corporate Debtor, it has supplied the goods of Soya De Oiled Cake to the Corporate Debtor under various Invoices dated 16.02.2019 to 20.02.2019. The total goods were sold worth of **Rs. 1,10,08,25.53/-**, out of which the Corporate Debtor paid sum of **Rs. 10,26,585.26/-** and balance amount of **Rs. 99,81,668.27/-** remained unpaid.

2) After lot of pursuance for the payment, the Corporate Debtor issued Cheque of **Rs.**



**98,81,673.27/-** towards the Shubhlaxmi Mahila Co-Operative Bank Ltd, Indore Branch dated 14.05.2019. However, the cheque was dishonoured. Hence, on 04.06.2019 the Operational Creditor sent Demand Notice under *Section 8 of the Insolvency & Bankruptcy Code, 2016*. The Notice was duly served to the Corporate Debtor. In spite of receipt of Demand Notice, the Corporate Debtor did not clear outstanding, nor replied to the Notice pointing out any dispute/objection towards amount claimed or the quality of goods supplied. Hence, this Application to start Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor.

- 3) The Notice of this Application has been served to the Corporate Debtor, the Corporate Debtor had appeared before this Adjudicating Authority through its Advocate Mr. Akshat Agrawal. In-spite of repeated adjournments, the Corporate Debtor did not file Affidavit-in-Reply and also no one appeared when the matter was called out for hearing.

- 4) We perused the record and heard submissions made by the Learned Counsel for the Operational Creditor.



- 5) The Operational Creditor has produced the relevant Invoices, Statement of Account and Cheque issued by the Corporate Debtor for re-payment, which was dishonoured. All about evidence proved two facts (i) the debt of Rs. **Rs. 1,10,08,25.53/-**, is due and payable by the Corporate Debtor to the Operational Creditor and (ii) Corporate Debtor committed default in paying the same.
- 6) Learned Counsel for the Operational Creditor pointed out that the Demand Notice dated 04.06.2019 has been duly served on the Corporate Debtor but the Corporate Debtor did not pay the amount nor pointed out any pre-existing dispute.
- 7) The Operational Creditor has filed an Affidavit stating that it did not receive the amount claimed from the Corporate Debtor. It has not received reply/objection from the Corporate Debtor pointing out the dispute, thereby, it has complied with provisions of *Section 9(3) (b) and 9 (3) (c) of the Insolvency & Bankruptcy Code, 2016.*
- 8) The Operational Creditor did not produce the name of Resolution Professional for appointment of 'IRP'



and left to the discretion of this Adjudicating Authority. The Application under Section 9 of the Insolvency & Bankruptcy Code, 2016 is defect free, hence, we admit the application and Corporate Insolvency Resolution Process (CIRP) is commenced by following order :

**ORDER**

1. The Operational Creditor has not proposed the name of the Interim Resolution Professional(IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Mangesh Vitthal Kekre IBBI/IPA-001/IP-P00539/2017-2018/10964** **ca.mangesh@gmail.com** to act as an IRP under Section 13(1) (c) of the Code.
2. The application 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 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 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 extend 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, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

4. This Adjudicating Authority direct 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.



5. The order of moratorium shall have effect from the date of receipt of authenticated copy 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.

6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.

7. 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 receipt of this order for the purpose of smooth conduct of**



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**Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report.**

8. 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.
9. Accordingly, **CP(IB) No. 484/9/NCLT/AHM/2019 is allowed.**
10. The matter to be listed on 11.08.2020 for further consideration.



*Ambedkar*  
*14/7/2020*  
**(VIRENDRA KUMAR GUPTA)**  
ADJUDICATING AUTHORITY  
& MEMBER (T)

*Madan B. Gosavi*  
*14/7/2020*  
**(MADAN B. GOSAVI)**  
ADJUDICATING AUTHORITY  
& MEMBER (J)

Signed on this, the 14<sup>th</sup> July, 2020.

vc

Certified to be True Copy of the Original

*[Signature]*  
Deputy Registrar  
NCLT, Ahmedabad Bench  
Ahmedabad  
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