

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ
(Special Bench)**

CP (IB) No. 377/ALD/2019

In the matter of:

A petition under section 9 of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Manjushree Technopack Limited

[CIN: U67120KA1987PLC032636]

...

Operational Creditor

Versus

Hansraj Agrofresh Private Limited

[CIN: U15490UP2014PTC065749]

...

Corporate Debtor

Order reserved on: 04.01.2022

Order pronounced on:31.01.2022

Coram:

Shri Rajasekhar V.K.

:

Member (Judicial)

Shri Balraj Joshi

:

Member (Technical)

Appearances (through video conferencing):

For the Operational Creditor

:

Mr. Yogendra Singh, Advocate

For the Corporate Debtor

:

Mr. Dewarshi Kumar Rai, Advocate

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This is a Company Petition filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter, the Code*) by **Manjushree Technopack Limited**, a company incorporated under the Companies Act, 1956 and represented by its Director, Mr. Sameernath K, authorised by a Board Resolution dated 20.05.2019 (*hereinafter, the Operational Creditor*) seeking to initiate Corporate Insolvency Resolution Process (*hereinafter, CIRP*) against Hansraj Agrofresh Private Limited (*hereinafter, the Corporate Debtor*).
2. The Corporate Debtor, **Hansraj Agrofresh Private Limited** is a private

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limited company incorporated on 29.08.2014, under the Companies Act, 2013, having CIN: U15490UP2014PTC065749, with the Registrar of Companies, Uttar Pradesh, Kanpur. Its registered office is at C-23, 2nd Floor, Swastik Gardenia, Shivpuri, Varanasi-221003, within the State of Uttar Pradesh. Therefore, this Bench has jurisdiction to deal with this petition.

3. The present petition was filed on 11.09.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹13,00,225/- (Rupees thirteen lakh two hundred and twenty-five only) along with interest @24% per annum from the due date of invoice, total amounting to ₹16,62,721/- (Rupees sixteen lakh sixty-two thousand seven hundred and twenty-one only) from the date of default, *i.e.*, 30.13.2018.
4. The learned Counsel for the Operational Creditor states as follows: -
 - a. The Operational Creditor supplied Pet Preform to the Corporate Debtor between 05.02.2018 and 28.02.2018 and raised invoices but subsequently the Corporate Debtor failed to make the payment for the outstanding invoice dated 28.02.2018 amounting to ₹15,99,930/- out of which ₹13,00,225/- remains outstanding. The copy of the outstanding invoice due along with the consignor copy, E- waybills & purchase order are annexed to the petition and marked as Annexure I, at pages 23 to 28 and ledger statement is annexed to the petition and marked as Annexure D at pages 29.
 - b. The Corporate Debtor has made payments from time to time and accordingly, an amount of ₹3,00,000/- (Rupees Three Lakh only) has been adjusted against invoice no. AS01-FY18-00632 and thereafter the remaining amount is due. The last payment received from the Corporate Debtor was on 19.03.2019.
5. Apart from the aforementioned documents, the Operational Creditor has placed the following documents on record:
 - a. An affidavit affirming that no notice has been given by the Corporate Debtor relating to dispute of unpaid debt under section 9(3)(b) of the Code; annexed to the petition and marked as Annexure I at pages 57 to 60.

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- b. Statement of bank account of Operational Creditor; annexed to the petition and marked as Annexure H at pages 52 to 56.
- c. Demand notice dated 28.05.2019; annexed to the petition and marked as Annexure F at pages 31 to 38.
6. Advance Court notice had been served on the Corporate Debtor on 23.10.2019. The Corporate Debtor filed its reply affidavit on 13.01.2020 wherein it admits that the dues are pending to the Operational Creditor and this default in payment has been created because the company has been shut down and is not functional.
7. It is the matter of record that *vide* order dated 13.03.2020 the counsel for the Operational Creditor submitted that the parties have entered into settlement and a part payment of ₹2,00,000/- (Rupees two lakh only) has been received by the Operational Creditor. However, on 18.02.2021, after the settlement was entered into, the Corporate Debtor has failed to adhere to and comply with the settlement of payment and the remaining amount has not yet been paid.
8. From the records it is apparent that the goods were supplied and delivered and a debt towards it is due and payable in favour of the Operational Creditor.
9. The petition made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of the minimum amount of one lakh rupees as stipulated under section 4(1) of the Code at the relevant time. There is no defence from the side of the Corporate Debtor. Therefore, the default stands established and there is no reason to deny the admission of the petition. In view of this, this Adjudicating Authority admits this petition and orders initiation of CIRP against the Corporate Debtor.
10. The Operational Creditor has proposed the name of Mr. Kedarram Ramratan Laddha [Reg No.IBBI/IPA-001/IP-P00586/2017-2018/11115], having address at No.1002, Mondeal Square, Near Prahlad Nagar Garden, SG Highway,

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Ahmedabad, Gujarat-380015 [email: ipkedar@kpsj.com], as the Interim Resolution Professional (IRP) of the Corporate Debtor. The proposed IRP has given his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. He, however, does not appear to have a valid Authorisation for Assignment (AFA)¹ as required in terms of regulation 7A² of the Insolvency & Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. He cannot, therefore, be appointed as the IRP, and the Adjudicating Authority shall appoint another insolvency professional from the panel of names made available to this Bench by the IBBI.

11. It is, accordingly, hereby ordered as follows:

- a. The petition bearing CP (IB) No.377/ALD/2019 filed by Manjushree Technopack Limited, the Operational Creditor, under section 9 of the Code read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **Hansraj Agrofresh Private Limited** (CIN: U15490UP2014PTC065749), the Corporate Debtor, **is admitted**.
- b. There shall be a moratorium under section 14 of the IBC.
- c. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- d. Public announcement of the CIRP shall be made immediately as specified

¹ https://www.ibbi.gov.in/insolvency-professional/details?fieldid=MjA5OQ%3D%3D&type=AFA_Details

² 7A. Authorisation for Assignment: An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be:

Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-

- (a) 31st December, 2019; or
- (b) the date of expiry of his authorisation for assignment.

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under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- e. 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, Uttarakhand- 247667 [email: cadevrana@gmail.com], is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.
- f. The fee payable to IRP or, as the case may be, the RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- g. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- h. The IRP/RP shall submit periodical reports to this Adjudicating Authority with regard to the progress of the CIRP in respect of the Corporate Debtor.

12. CP (IB) No. 377/ALD/2019 to come up on 20.04.2022 for periodical report.

13. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

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Balraj Joshi
Member (Technical)

Swati Gupta, LRA

Rajasekhar V K Digitally signed
by Rajasekhar V K
Date: 2022.01.31
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Rajasekhar V.K.
Member (Judicial)