

307

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-I, CHENNAI**

IA/1257/IB/2020 in CP/600/IB/2018

*(filed under Section 60(5) of the Insolvency & Bankruptcy Code,
2016)*

*In the matter of **Galaxy Cosmetics Private Limited***

Mathur Sabhapathy Viswanathan,
Liquidator of Galaxy Cosmetics Private Limited,
15/35, Musafar Jung Bahadur Street,
Triplicane, Chennai – 600 005.

.... Applicant/Liquidator

-Vs-

Sri Annamalaiyar Products,
R.S.No.131/10, Villupuram Main Road,
Ariyapalayam, Villianur Commune,
Puducherry – 605 110.

... Respondent

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Applicant : M.S. Viswanathan, Liquidator
For Respondent : Elango Jayabalan, Advocate

*Order pronounced on **28th April 2022***

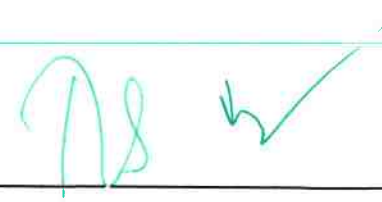
ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

IA/1257/IB/2020 in CP/600/IB/2018 has been filed by the
Applicant Mr. Mathur Sabhapathy Viswanathan vide SR.No.1287
dated 23.11.2020.

5. In response to MA/62/2019 it is also submitted that the Corporate Debtor had also accepted the receipt of the same before this Tribunal in MA/62/2019. The Respondent had addressed a mail on 10.02.2016 requesting the Corporate Debtor to acknowledge. However, no acknowledgement was received.

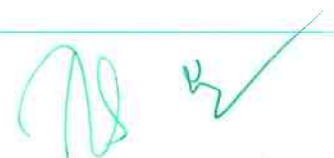
6. It is seen that, later the raw material taken was used to manufacture various goods which were sold by the Corporate Debtor. Subsequent to which the Respondent has filed complaint at Villianur police station, Puducherry in June 2016. The Corporate Debtor later tendered his apology for his conduct and certain cheques were also issued by the Corporate Debtor to the Respondent and four criminal cases under Section 138 of Negotiable Instrument Act were filed by the Respondent pursuant to dishonour of those cheques. The Corporate Debtor and the Respondent arrived at Joint Compromise which recorded in the Memo dated 12.06.2018. Based on which the said criminal cases were withdrawn. Clause 6 of the said Joint Compromise Memo states "*the complainant and accused jointly agreed that that they have no business transaction due in any manner from the moment*". The Respondent further submits that in terms of the said Joint Compromise Memo nothing is due to the Corporate Debtor.



2 The CIRP in respect of **Galaxy Cosmetics Pvt. Ltd** in was initiated by this Tribunal on 30.08.2018 and the Applicant herein was appointed as IRP. Later, he was continued as RP which was confirmed by the 1st CoC meeting held on 01.10.2018.

3. It is submitted that the Corporate Debtor did not submit the books of accounts of the Corporate Debtor. Only on 12.11.2018 it has produced the balance sheet. Finally, on 12.01.2019 the Corporate Debtor gave its books of accounts to the RP. While going through the books the RP came across that the Respondent owes a sum of Rs.72,988.64/- to the Corporate Debtor. Copy of the ledger balance is enclosed as Annexure-2. Thereafter, the RP approached the Respondent supplier for refund of the money.

4. It was submitted that vide order dated 15.04.2019 passed in MA/285/2019 liquidation was ordered in the matter and the Applicant was appointed as the Liquidator. In response, Counter was filed vide SR.No.3607 dated 19.08.2021. It was submitted that stocks of Rs.72,988.64 were transported to the Corporate Debtor to a truck (TN-22-CF-8910) which was arranged by the Corporate Debtor himself. Copy of the delivery challan bearing number 121 dated 13.02.2016 is enclosed as Annexure – A.



7. Heard both the parties and perused the documents. It appears that the dispute between the parties relates prior to 2016. We have also seen the common joint compromise memo filed by the complainant and the accused. On 18th June 2018, S.T.C.No. 113 of 2017; S.T.C.No. 114 of 2017, S.T.C.No. 115 of 2017 and S.T.C.No. 116 of 2017 which were filed before the Judicial Magistrate, Puducherry which clearly records that as on the date of the compromise they have no business transaction due in any manner from the moment. Based on which the complaints were dismissed as withdrawn.

8. Ld. Liquidator has once again submits the same issue before us in which settlement had earlier been arrived at. We do not find any merit in the Application and the same is hereby **dismissed**.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

MEMBER (TECHNICAL)

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)

MEMBER (JUDICIAL)

Raymond