

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

CP/952/IB/2018 filed under Section 9
of the Insolvency and Bankruptcy Code,
2016 r/w Rule 6 of the Insolvency and
Bankruptcy (Application to Adjudicating
Authority) Rules, 2016

In the matter of *M/s. Srinathji Glazing Private Limited*

M/s. Fuso Glass India Private Limited

... Operational Creditor

-Vs-

M/s. Srinathji Glazing Private Limited

... Corporate Debtor

Order delivered on 16th of September, 2019

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Operational Creditor : Mr. K.Narasimhan, Counsel
For Corporate Debtor : Ex parte*

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Adjudication is CP/952/IB/2018 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w Rule 6 of the Insolvency & Bankruptcy



(Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. As seen from the record, there was no representation on behalf of the Corporate Debtor despite sufficient service. Hence, the Corporate Debtor was proceeded *ex parte* on 28.11.2018.

3. Heard the Counsel for the Operational Creditor and perused the record placed on file.

4. The Operational Creditor has claimed an amount of Rs.35,78,832/- including interest, against the Corporate Debtor as on 01.03.2018, which the Corporate Debtor has failed to pay.



5. The brief facts of the case are that the Operational Creditor is a leading glass manufacturer and processor. As per the Purchase Order placed by the Corporate Debtor, the goods were supplied by the Operational Creditor to the Corporate Debtor. Thereafter, the Operational Creditor raised Invoices on the Corporate Debtor for the goods supplied on various dates. The terms and conditions stipulated in the Invoice is that, the interest at the rate of 24% will be charged if the payment is not received on the due date and the goods once sold will not be taken back. Invoices are placed at pages 6 to 43 of the typed set filed with the Application.

6. The details of the Invoices for which the payments are pending from 17.10.2013 to 20.01.2015 are given in a tabular form at page 44 of the typed set filed with the Application which reflects the principal outstanding amount.



7. The Corporate Debtor issued four Cheques dated 29.06.2019 for a total sum of Rs.17,63,378/- in favour of the Operational Creditor towards the part payment for the goods supplied by the Operational Creditor. Copy of the cheques are placed at pages 56 and 57 of the typed set filed with the Application. On presentation of the said Cheques in the Bank, the same were returned with endorsement "*funds Insufficient*", on 30.06.2016.

8. The Operational Creditor has sent Form-3 Demand Notice dated 29.03.2018 under Section 8 of I&B Code, 2016 to the Corporate Debtor wherein the amount of debt claimed is being mentioned. Copy of notice is placed at pages 60 to 63 of the typed set filed with the Application which was dispatched by the Operational Creditor to the Corporate Debtor on 04.04.2018. However, the same was returned "*unserved*". Copy of RPAD is placed at page 63 of the typed set filed with the Application.



9. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016, by filing Affidavit wherein under Para 4, it has been deposed that no notice of existence of dispute has been given by the Corporate Debtor with regard to the unpaid operational debt. The Affidavit is placed at pages 1 to 3 of the additional typed set filed with the Application. The ledger statement filed by the Operational Creditor is placed at pages 4 to 11 of the additional typed set filed with the Application.

10. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Authority is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, Application is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered, which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.



11. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, namely :-

- (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 (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.

12. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

13. The Operational Creditor has not proposed the name of IRP, therefore **Mr. Perumal Ulaganathan** is appointed as IRP, whose name is mentioned in the Panel of Insolvency Professionals recommended by the IBBI, there is no disciplinary proceedings pending against the IRP. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.



14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

15. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.

16. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the concerned RoC. The address details of the IRP are as follows: =




✓ **Mr. Perumal Ulaganathan**

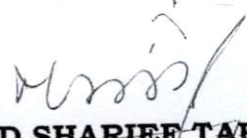
REG. No. IBBI/IPA-001/IP-P00970/2017-18/11600

E-mail: apunathan@yahoo.co.in

Mobile No. 9884120501

17. Order pronounced in open Court.

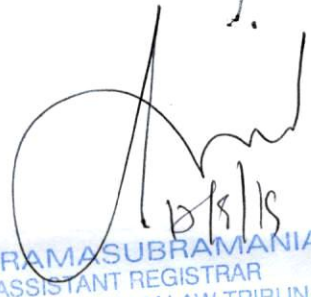

(ANIL KUMAR B)
MEMBER (TECHNICAL)


(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

P.ATHISTAMANI



Certified to be True Copy


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