Sr. no. 282/2019

IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH (RAJASTHAN)

CP No. (IB)-209/9/JPR/2019

CORAM: MS. INA MALHOTRA,
HON'BLE JUDICIAL MEMBER
SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IN THE MATTER OF SECTION 9 OF IBC, 2016.

IN THE MATTER OF:

M/s Sand Chem India Ltd.
43-44, Dharuhera Industrial Area,
Rewari, Haryana-124201

...OPERATIONAL CREDITOR/APPLICANT

M/s Rajasthan Wood Products (P) Ltd.
SP 90, RICO Industrial Area,
Agra Road, Bassi, Jaipur, Rajasthan-303301

...CORPORATE DEBTOR/RESPONDENT

FOR PETITIONER (S) : **Aishwarya Sharma, Adv.**

FOR RESPONDENT(S) : **None-appeared**

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Vs.
M/s Rajasthan Wood Products(P) Ltd.

Assistant Registrar
National Company Law Tribunal
Jaipur

15 OCT 2019

Order pronounced on: -11.10.2019 at 4 p.m

ORDER

Per: Ms. Ina Malhotra(Judicial Member)

1. The present petition has been filed by the petitioner claiming to be an Operational Creditor. They seek to invoke the provisions of Section 9 of the Insolvency and Bankruptcy Code for initiating Corporate Insolvency Resolution Process (CIRP) of the Respondent/Corporate Debtor for its inability to liquidate its outstanding liability.

2. As per averments, the Operational Creditor is engaged in the business of supplies of chemicals and had supplied Formaldehyde to the Corporate Debtor from time to time as per orders placed by them. Invoices were raised and a running account was maintained by the Operational Creditor. The Operational Creditor submits that a sum of Rs. 15,86,875/- (Fifteen Lakh Eighty-Six Thousand Eight Hundred Seventy-Five) is outstanding for remittance, which despite repeated requests and reminders has not been paid by the Corporate Debtor.

3. The Operation Creditor finally issued a demand notice under Section 8 of the Code in the required format annexing the invoices as well as the GR copies corroborating delivery of goods. It is submitted that no reply was received from the Corporate Debtor, nor was any step taken to reduce the liability thereunder. Upon filing of the present petition before this Bench,

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notice was issued to the Corporate Debtor. They have failed to appear and were therefore proceeded ex-parte. The petition has complied with the requirements of Section 9 (3) (b & c). Keeping in view that there is no resistance to the prayer made nor is there any repudiation of the outstanding liability or any pre-existing disputes brought to our notice, the prayer of the Corporate Debtor merits consideration.

4. Accordingly, we Admit the present petition and direct initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. A moratorium shall come into effect forthwith, staying:

(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 less or where such property is occupied by or in the possession of the Corporate Debtor.

Further: (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

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(3) The provisions of sub-section (1) shall not apply to-'

(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a Corporate Debtor.

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

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 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.

5. The Corporate Debtor has not named any IRP. The Tribunal accordingly appoint Mr. Babu Lal Sharma, duly empanelled with the IBBI, to act as an IRP. The Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Two Lakhs) to meet the initial expenses. This amount shall be reimbursed to the Operational Creditor by the COC, to be recovered as CIRP cost. The IRP shall maintain the statement of expenses to be submitted to the COC for due reimbursement.

6. The IRP is directed to take all such steps as per statutory requirements, more specifically under Sections 15,17,18,20 and 21 and submit his report before this Bench or on before 20.11.2019.

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7. This order be communicated by the Registry to both the parties as well as to IRP who may immediately tender his consent and certificate of eligibility to be placed on record.

Sd/-

(RAGHU NAYYAR)
TECHNICAL MEMBER

Sd/-

(INA MALHOTRA)
JUDICIAL MEMBER

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