

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(through web-based video conferencing platform)**

**CP (IB) No.152/Chd/HRY/2020**

**Under Section 9 of the Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

M/s Revex Plasticisers Private Limited,  
E-21, Naraina Vihar, New Delhi- 110028  
Through its Authorized Person/Director,  
Mr. Rama Nand Gupta  
cs@revex.co.in  
Mobile No.9818325183

...Petitioner/Operational Creditor

Versus

M/s Compaq International Private Limited  
VPO- Shadipur, Yamuna Nagar, Haryana- 135001  
info@compaqinternational.com

...Respondent/Corporate Debtor

**Judgment delivered on: 14.10.2022**

**CORAM: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

For the Operational Creditor : Mr. G.S. Sarin, Practicing Company  
Secretary

Respondent/Corporate Debtor proceed *ex-parte* vide order dated 03.08.2022

**PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)**

**JUDGMENT**

The instant petition has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, (for short hereinafter referred to as the '**Code**') read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for short hereinafter referred to as the '**Rules**') by M/s Revex Plasticisers Private Limited (for short hereinafter referred to as the '**operational creditor/petitioner**') for initiating Corporate Insolvency Resolution Process (for short hereinafter referred to as the '**CIRP**') against M/s Compaq International

Private Limited (for short hereinafter referred to as the '**corporate debtor/respondent**'). The present petition has been filed in Form 5 as prescribed in Rule 6 (1) of the Rules. The petition is supported by affidavit of Mr. Rama Nand Gupta, Director of the operational creditor, who has been authorized by Board Resolution dated 06.08.2019 (Annexure P-11).

2. The corporate debtor, namely, Compaq International Private Limited, is a company incorporated on 20.04.2012 under the Companies Act, 1956, having CIN U36100HR2012PTC045685 and its registered office is at VPO- Shadipur, Yamuna Nagar, Haryana- 135001. Therefore, the matter falls within the territorial jurisdiction of this Adjudicating Authority. Copy of master data of the corporate debtor is at Annexure P-2 of the petition.

3. The brief facts, as stated in the petition, are that the operational creditor, supplied Polyester Resin to the corporate debtor from time to time pursuant to purchase order placed through telephone and/or mail and also received payment through RTGS/Cheque from time to time. It is further stated that as on 20.11.2018, the corporate debtor had outstanding balance of Rs.6,95,957/- and the operational creditor sent a legal notice through e-mail dated 20.11.2018 (Annexure P-3) through its counsel for release of the outstanding payment.

4. In response to the same, the respondent/corporate debtor through its e-mail dated 21.11.2018 (Annexure P-4) assured the operational creditor to clear its outstanding balance by 25.01.2019. Thereafter, the respondent/corporate debtor made the payment of Rs.69,500/- on 22.11.2018 and Rs.1,00,000/- on 23.01.2019 but failed to discharge its commitment of clearing the total outstanding amount. Thus, the amount in default, as claimed in the present petition, is Rs.5,26,457/-.

Copies of ledger account of the petitioner/operational creditor has been annexed as Annexure P-5.

5. It is further stated that since despite several communication/follow up with the respondent/corporate debtor through mail/phone for release of payment of admitted outstanding dues it failed to make the payment, thus, the operational creditor sent a Demand Notice dated 18.12.2019 in Form 3 (Annexure P-6) by speed post on 24.12.2019 at the registered address of the corporate debtor, calling upon the corporate debtor to pay the unpaid operational debt in full within 10 days from the date of receipt of notice. Copy of postal receipts and tracking reports have been annexed with the demand notice as Annexure P-7. A perusal of the tracking report annexed with the demand notice shows that the demand notice sent at registered address of the corporate debtor was delivered. It is further stated that the petitioner/operational creditor also sent demand notice through speed post at the personal address of the directors of the respondent/corporate debtor, as mentioned in the website of the MCA on 24.12.2019 and the same had been duly delivered on 26.12.2019. The petitioner/operational creditor has also stated in the petition that scanned copy of demand notice was also sent through e-mail dated 10.01.2020 (Annexure P-7) to the respondent/corporate debtor on its registered e-mail, as available in the portal of the MCA, which has been delivered and the same has not bounced back. However, no response to the demand notice is stated to have been received.

6. On 02.03.2020 notice of this petition was also issued to the respondent/corporate debtor to show cause as to why the petition be not admitted. The petitioner/operational creditor filed affidavit of service vide Diary No.00271/1 dated 11.09.2020, wherein it has been deposed by learned Practicing Company

Secretary for the petitioner/operational creditor that in compliance of order dated 02.03.2020 notice of the petition was sent to the respondent/corporate debtor through e-mail on 18.03.2020, as provided in the master data of the corporate debtor and the same has not bounced back. Further, it has been stated that on 17.03.2020 notice was also sent through speed post at registered address of the corporate debtor as provided in the master data of the corporate debtor, however, since speed post tracking details were not available on the website of the Postal Department, so complaint was lodged with the Department twice through letter dated 11.07.2020 and 26.08.2020 (Annexure 4) which was duly acknowledged and through e-mail dated 27.08.2020 (Annexure 4), the Postal Department confirmed that the Speed Post had been delivered on 21.04.2020 by Shadi Pur Branch Post Office.

7. When the matter was listed on 10.03.2021, there was no representation on behalf of the respondent/corporate debtor and in the interest of justice, yet another opportunity to file the reply was granted to it and the petitioner/operational creditor was directed to serve copy of order to the respondent/corporate debtor and file affidavit of service to that effect. In compliance thereof, affidavit of service was filed vide Diary No.00271/2 dated 25.05.2021, wherein it has been deposed by learned Practising Company Secretary for the petitioner/operational creditor that compliance of direction given by this Tribunal has been duly made by serving the order to M/s Compaq International Private Limited, respondent/corporate debtor, via Speed Post EP631545168IN dated 30.03.2021 on the registered address of the respondent/corporate debtor as available in the MCA Portal and the same was delivered on 20.04.2021. Further, e-mail annexing order dated 10.03.2021 was also sent at the registered e-mail address of the corporate debtor, as available on

the MCA Website and the same has been delivered and has not bounced back. Copy of postal receipt, tracking report and e-mail has been annexed with the said affidavit.

8. When the matter was listed on 17.03.2022, it was observed that case could not be taken up for last few dates of hearing and in the interest of justice, learned Practising Company Secretary for the petitioner was again directed to inform the next date of hearing to the respondent through e-mail and file affidavit to that effect so that effective proceedings could be taken against the respondent/corporate debtor. In compliance thereof, compliance affidavit was filed vide Diary No.00271/3 dated 14.06.2022, wherein it has been deposed by learned Practising Company Secretary for the petitioner/operational creditor that compliance of direction given by this Tribunal has been duly made by serving the order by intimating the next date of hearing through e-mail dated 14.06.2022 (Annexure 4) to the respondent/corporate as per the e-mail mentioned in the master data of the respondent/corporate debtor. Further, it has been deposed that the e-mail has been delivered to the respondent/corporate debtor and the same has not bounced back.

9. We have heard the learned Practising Company Secretary for the petitioner/operational creditor, perused the pleadings and have gone through the records carefully.

10. The first issue for consideration is whether the demand notice dated 18.12.2019 was properly served. As discussed above, the demand notice sent at registered address of the respondent/corporate debtor, as available on the master

data of the corporate debtor, was delivered and tracking report showing its delivery has also been annexed with the petition.

11. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. The petitioner/operational creditor has filed an affidavit dated 06.02.2019 (Annexure P-9) under Section 9(3)(b) of the Code, wherein it has been deposed that after the expiry of the period of ten days from the date of delivery of the demand notice, it has not received any payment from the corporate debtor and further that there is no reply given by the respondent/corporate debtor to a dispute of the unpaid operational debt. Further, it has been deposed that no notice was given by the respondent/corporate debtor relating to the dispute of the unpaid operational debt and has further undertaken that there is no pre-existing dispute between the parties.

12. The other issue for consideration is whether this application was filed within limitation. A perusal of the case file shows that the application was filed vide Diary No.1379 dated 19.02.2020, and the date of default as is mentioned in Part-IV of Form 5 is 25.01.2019 i.e. the date on which the respondent/corporate debtor assured the petitioner/operational creditor to clear the outstanding amount. Therefore, this Adjudicating Authority finds that this application has been filed within limitation.

13. We have gone through the contents of the application filed in Form 5 and find the same to be complete. As discussed above, there is a total unpaid operational debt of ₹5,26,457/-, as claimed in the petition. As noted above, the operational creditor has provided the details of the debt due and has also annexed with the petition copy of ledger account statement, and invoices. Accordingly, the

petitioner/operational creditor has established the debt and the default, which is more than Rupees one lakh i.e. the threshold limit (pre-revised).

14. It is noted that the corporate debtor has failed to make payment of the aforesaid amount due as mentioned in the statutory notice till date. Thus, the conditions under Section 9 of the Code stand satisfied. It is evident from the above-mentioned facts that the liability of the corporate debtor is undisputed and established. Also, there is no rebuttal to the claim filed by the petitioner as respondent/corporate debtor chose not to appear. Accordingly, the petitioner proved the debt and the default which is above threshold limit.

15. In Part-III of Form No. 5, no Interim Resolution Professional has been proposed by the petitioner. Accordingly, we appoint Mr. Chandan Bhatia as the Interim Resolution Professional in the matter of M/s Compaq International Private Limited, whose name appears at Serial No.28 of the list provided by the Insolvency and Bankruptcy Board of India, which is valid till 31.12.2022.

16. In the present petition, all the aforesaid requirements have been satisfied. It is seen that the petition preferred by the petitioner is complete in all respects. The material on record clearly goes to show that the respondent committed default in payment of the claimed operational debt even after demand made by the petitioner. In view of the satisfaction of the conditions provided for in Section 9(5)(i) of the Code, we admit the petition for initiation of the CIRP in the case of the corporate debtor, M/s Compaq International Private Limited.

17. We also direct moratorium in terms of sub-section (1) of Section 14 of the Code as under:-

- 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 Securitization and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 2002; and
- 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.

18. It is further directed that 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. The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

19. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench

approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33 as the case may be.

20. The Law Research Associate of this Tribunal has checked the credentials of Mr. Chandan Bhatia from the online database provided by the IBBI and there is nothing adverse against him. In view of the above, we appoint Mr. Chandan Bhatia, having Registration No.IBBI/IPA-001/IP-P-02320/2021-2022/13614, E-mail: chandanbhatia.ip@gmail.com, Mobile No.9711130205, as the Interim Resolution Professional with the following directions: -

- i.) The term of appointment of Mr. Chandan Bhatia shall be in accordance with the provisions of Section 16(5) of the Code. The Interim Resolution Professional is directed to file his written consent in Form-2 within one week of this order;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor

etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;

- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;
- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

- vi.) This Adjudicating Authority directs the ex-management and promoters of the corporate debtor to specifically comply with the provisions of the Sub Regulation (2) of Regulation 4 of the Insolvency Resolution Process for Corporate Persons Regulations, 2016. This Adjudicating Authority further directs that the Interim Resolution Professional should also make all efforts simultaneously to retrieve the required information from the computerized data of the corporate debtor from the systems handed over to the Interim Resolution Professional after initiation of CIRP. For retrieving relevant information, the Interim Resolution Professional may take the help of any digital forensic companies from the empanelled list available with the Registry of this Adjudicating Authority, if required. This is imperative for meeting the Code's objectives for maximising the value of the assets of the corporate debtor and completing the resolution process in a time-bound manner. The Interim Resolution professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP and move an application seeking appropriate remedy, if required.
- vii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a

report, certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

viii.) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

21. The petitioner is directed to deposit an amount of ₹60,000/- (Rupees Sixty Thousand Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

22. This petition is accordingly allowed and admitted.

A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his email address forthwith.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

October, 14<sup>th</sup> 2022  
MK

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(through web-based video conferencing platform)**

**CP (IB) No.152/Chd/HRY/2020**

**Under Section 9 of the Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

M/s Revex Plasticisers Private Limited

...Petitioner/Operational Creditor

Versus

M/s Compaq International Private Limited

...Respondent/Corporate Debtor

**Present through Video Conferencing:-**

For the Operational Creditor : Mr. G.S. Sarin, Practicing Company  
Secretary

Respondent/Corporate Debtor proceed *ex-parte* vide order dated 03.08.2022

Vide separate detailed order of even date, the present petition is admitted.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

October, 14<sup>th</sup> 2022  
MK