

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB) No.02/BB/2020
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

Between :

Smt. Yogitha Vijaykumar
Proprietor
Shree Ratna Farm Products
No.328/2, Marathikoppa Road,
Vidyanagar, 4th Cross,
Bengaluru – 581 402.

- Petitioner / Operational Creditor

And

The Maylari Agro Products Ltd.
Regd. Off: No.38/18, 1st Floor,
2nd Cross, Industrial Suburb,
Lorry Godown Layout,
Yeshwanthpur,
Bengaluru – 560 022.

- Respondent / Corporate Debtor

Order Pronounced on: 08th March, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

For the Petitioner : Shri Shankar B.

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.02/BB/2020 is filed by Smt. Yogitha Vijaykumar, Proprietor of M/s. Shree Ratna Farm Products under Section 9 of the I&B Code, 2016 R/w Rule 6 of the I&B (AAA) Rules, 2016, by *inter alia* seeking to initiate Corporate Insolvency Resolution Process in respect of M/s. The Maylari Agro Products Ltd. on the ground that Corporate Debtor has committed default for an amount of Rs.16,24,677/-



Page 1 of 5

(Rupees Sixteen Lakhs Twenty Four Thousand Six Hundred Seventy Seven only) along with interest @ 18% per annum till the date as on 14.08.2019.

2. Brief facts of the case, as mentioned in the Petition, which are relevant to the issue in question, are as follows:

- (1) The Operational Creditor is a Proprietorship Firm that is in the business of supplying rice and supplier of dry grapes.
- (2) M/s. The Maylari Agro Products Ltd. (hereinafter referred to as 'Respondent / Corporate Debtor') is a Company incorporated on 21.06.2016 under the Companies Act, bearing CIN: U15129KA 2016PLC094308 and having its registered office situated at No.38/9, 1st First Floor, 2nd Cross, Lorry Godown Layout, RMC Yard, Yeshwanthpur, Bangalore-560022. Its Authorised Share Capital is Rs.10,00,00,000/- (Rupees Ten Crores only) and Paid-up Share Capital is Rs.4,82,90,000/- It is engaged in the business of manufacturing and wholesale trading of Tea, Coffee, Spices and other Food products.
- (3) The Operational Creditor supplied rice that was appropriated. Subsequently, the Operational Creditor raised invoices bearing No.138201920 dated 07.06.2019 for Rs.8,19,000/- & No.146201920 dated 13.07.2019, and utilized by the Respondent. Each invoices was accepted by the Respondent as received in admission of its liability to pay. On failure to pay invoices, a Demand Notice dated 30.08.2019 has been sent to the Respondent Company demanding payment of Rs.13,83,650/- Despite numerous communications by the Operational Creditor, the Respondent has not made the outstanding payments but has time and again assured the Operational Creditor that payments will be cleared. Hence, the present application.

3. Heard Shri Shankar B., learned Counsel for the Petitioner, **through Video Conference**. We have carefully perused the pleadings of the



Party and the extant provisions of the Code and the Rules made thereunder.

4. The case was listed for admission on various dates viz., 03.01.2020, 28.01.2020, 14.02.2020, 26.02.2020, 18.03.2020, 08.01.2021 and 22.01.2021. Accordingly, the Adjudicating Authority ordered notice to the Respondent on 03.01.2020. Subsequently, the Petitioner has served notice to the Respondent and also filed the proof of service vide Memo dated 25.02.2020. However, neither the Respondent nor any body representing appear on above dates, and also no reply has been filed. Therefore, the Respondent is deemed to have accepted default in question and it has become insolvent and was unable to pay the outstanding amount.
5. Shri Shankar B., has further submitted that debt and default deemed to be admitted, having not controverted so far. And the instant Petition is filed strictly in accordance with law and qualified Insolvency Professional namely Mr. S. Viswanathan, bearing Reg. No. IBBI/IPA-001/IP-P00538/2017-2018/10963 is proposed to appoint him as the Interim Resolution Professional, who also has filed his Written Communication dated 21.01.2021. Therefore, the learned Counsel for the Petitioner has urged the Adjudicating Authority to admit the instant Petition by initiating the CIRP, as prayed for.
6. The above facts clearly shows that the instant Company Petition is filed in strictly in accordance with provisions of the Code. Admittedly, there is a debt and default in question and due notice was given to the Corporate Debtor for payment of outstanding amount. A qualified n Insolvency Professional namely, Mr. S. Viswanathan, is also suggested to appoint him as IRP and he has also filed his Written Communication in Form 2 dated 21.02.2021, by inter alia, stating that there are no disciplinary proceedings pending against him with the IBBI or IIP of ICAI; he is currently serving as an Authorised Representative for Dreamz Infra India Ltd [C.P. (IB) No.84/BB/2019]. Therefore, we are of



the considered opinion that it is a fit case to admit by initiating CIRP against the Corporate Debtor, appointing IRP, imposing moratorium etc., as per the Code.

7. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority U/s 9(5)(i) and other extant provisions of the IBC, 2016, we hereby admitted **C.P. (IB) No.02/BB/2020** by initiating CIRP in respect **M/s. Maylari Agro Products Limited**, the Respondent/Corporate Debtor herein, with the following consequential directions:

- (1) Mr. S. Viswanathan, bearing Registration No.IBBI/IPA-001/IP-P00538/2017-2018/10963, e-mail: vish.ramanan@gmail.com, #10, 6th A Cross, Ramaswamy Palya, Vignana Nagar, Bangalore-560037, who is a qualified Insolvency Professional, is hereby appointed as IRP, in respect of the Corporate Debtor, namely, M/s. Maylari Agro Products Limited, to carry out the CIRP as mentioned under the Insolvency and Bankruptcy Code, 2016 and various Rules issued by the IBBI from time to time;
- (2) The following moratorium is declared prohibiting all of the following, namely:
 - a) the institution of suits or continuation of pending suits or proceedings against the Respondent/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;



- 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;
- e) 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;
- f) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
- g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;
- (3) The IRP is directed to follow all extant provisions of the IBC, 2016, and all extant rules including fees rules as framed by IBBI from time to time. The IRP is hereby directed to file Progress Reports to the Adjudicating Authority from time to time.
- (4) The Board of Directors and all the staff of Respondent/ Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.
- (5) Post the case for submission of report of IRP on **8th April, 2021**.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

Krishna