IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB- 1132/ND/2020

(Under Section 9 read with Rule 6 of the Insolvency and Bankruptcy Code,2016 (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

RELIABLE FINANCE CORPN PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

DHSL TEXTILES (INDIA) LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 30.09.2021

<u>CORAM:</u>

DR. DEEPTI MUKESH
HON'BLE MEMBER (Judicial)

MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (Technical)

MEMO OF PARTIES

RELIABLE FIANNACE CORPN PRIVATE LIMITED
Registered Office at 106, T-10, Main Patel Road,
Guruarjun Nagar Shadi Khampur
New Delhi-110008

...Applicant/Operational Creditor

VERSUS

DHSL TEXTILES (INDIA) LIMITED
Registered office at R-815 New Rajinder Nagar
New Delhi-110060

...Respondent/ Corporate Debtor

For the Applicant: Mr Kamal Ahuja & Chetan Tripathi Trilochan Prakash Ravi, Advocates
For the Respondent: ----

IB- 1132/ND/2020

ORDER

Dr. Deepti Mukesh, Member (J)

1. The Present Application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016')read with Rule 6 of the Insolvency and Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016 by Reliable Finance Coprn Private Limited (for brevity 'Applicant'), with a prayer to initiate the Corporate Insolvency Resolution Process against DHSL Textiles (INDIA) Limited (for brevity 'Corporate Debtor')
2. The Applicant is a private limited company, having CIN U74899DL1956PTC002640, inter alai engaged in the business of selling, purchasing and trading of securities. The office is situated at106, T-10, Main Patel Road, Guruarjun Nagar Shadi Khampur New Delhi-110008.
3. The Corporate Debtor is a limited company, incorporated under the provisions of Companies Act, 1956 on 19.12.1984 bearing CIN L51900DL1984PLC019624, inter alia engaged in the business as manufacturer, buyer, seller dealer of all kinds of fabrics, textiles including decorative hand garments, carpets, rugs, blankets. The company is having its registered office at R-815 New Rajinder Nagar, New Delhi-110060.
4. The applicant submits that the corporate debtor entered into contract note dated 13.01.2010 with the applicant for trading in the shares of India stuffyarn Limited and in pursuant to that the applicant sold 63750 shares of India Stuffyarn Limited at the rate of Rs 180/- per share to the corporate debtor for an amount of Rs. 1,14,74,920/-, which became due and payable by the corporate debtor. The applicant raised sale invoice no. 92/2019-20 dated 13.01.2020 upon the corporate debtor for payment of Rs 1,14,74,920/-.

5. The applicant submits that serval reminders were sent to the corporate debtor for repayment of the outstanding amount while the corporate debtor always made false assurances of the payment and failed to honor the same. The applicant sent a reminder letter dated 18.09.2020 to the corporate debtor but of no vail and the payment was not received and still on date remains unpaid.
6. The applicant issued a Demand Notice dated 06.11.2020 to the corporate debtor under the I & B Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, which was duly received by the corporate debtor. The said notice was sent by speed post at the registered address of the corporate debtor as reflected in the master data, which is duly delivered to the Corporate Debtor on 10.11.2020. The tracking report is filed, which mentions 'Item Delivery Confirmed'. The Corporate Debtor has neither raised any dispute to the aforesaid notice nor made any payment towards the outstanding dues.
7. The Applicant filed present Application under section 9 of IBC, 2016 and served the copy of this application at the registered address as well as via email, as reflected on the MCA website, which was duly delivered to the corporate debtor. The affidavit of service has duly been filed.
8. The Corporate Debtor has neither filed any reply nor appeared before the bench. The corporate debtor was proceeded ex-parte on 06.04.2021.
9. As per Form V, Part IV of the application, the corporate debtor is liable to pay an outstanding sum of Rs. 1,14,74,920/-. The date of default as per part IV is 13.01.2020, which is date of invoice. The present application was filed on 01.12.2020, hence the debt is not time barred and the application is filed within the period of limitation.

10. The Applicant has filed an affidavit under section 9(3)(b) affirming that no notice of dispute has been given by the corporate debtor relating to dispute of the unpaid operational debt.
11. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
12. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, remained uncontroverted, establishing the default in payment of the operational debt beyond doubt. The present application is admitted, in terms of section 9 (5) of IBC, 2016.
13. The Applicant has proposed the name of Mr. Atiuttam Prasad Singh as Insolvency Resolution Professional, who is be and hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P01914/2019-20/12914 (email- atiuttamsingh@gmail.com) as IRP subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Respondent and specific consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.
14. We direct the Operational Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Atiuttam Prasad Singh to meet out the expenses to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of

this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

16. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

SD/-	SD/-
(MS. SUMITA PURKAYASTHA)	**(DR. DEEPTI MUKESH)**
MEMBER (T)	**MEMBER (J)**