



**THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 406/Chd/Hry/2019
Under Section 9 of Insolvency and
Bankruptcy Code, 2016.**

In the matter of:

Stella Industries Limited
203-A, DDA Building No. 2,
District Centre, Janakpuri
Delhi-110058

...Petitioner-Operational Creditor

Vs.

Life Essentials Personal Care Private Limited
having its registered office at
709, Sector-23, Village Carterpuri,
Gurgaon-122001, Haryana
CIN No. U24100HR2013PTC050853

...Respondent-Corporate Debtor

Judgement delivered on: 06.07.2023

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)
Hon'ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Petitioner-
Operational Creditor : Mr. G.S. Sarin, PCS

For the Respondent- 1). Mr. K.V. Singhal, Advocate
Corporate Debtor : 2). Mr. Deepak Suri, Advocate

Per: Harnam Singh Thakur, Member (Judicial)

JUDGMENT

The present petition is filed, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC' / 'Code'), by **Stella Industries Limited** through its Chief Financial officer Mr. Prakash Chand Kapoor (for brevity 'Operational Creditor' / 'Petitioner'), with a prayer to



initiate Corporate Insolvency Resolution Process (**CIRP**) in case of **Life Essentials Personal Care Private Limited** (for brevity '**Corporate Debtor**' / '**Respondent**').

2. The Corporate Debtor, namely, **Life Essentials Personal Care Private Limited**, is a Company incorporated on 07.11.2013 under the provisions of Companies Act with CIN No. U24100HR2013PTC050853 with its registered office at 709, Sector-23, Village Carterpuri, Gurgaon-122001, Haryana, India. Hence, the territorial jurisdiction lies with this Adjudicating Authority. Copy of master data of corporate debtor is attached with the main petition and marked as Annexure XI.

3. The facts of the case, briefly, as stated in the petition are that the applicant company supplied bold DEO track 200 ML, W2 Men Deo Bold 200ML Dark, Bold Deo Flaunt 200 ML and other equipments to the Corporate Debtor as per the invoices. Wherein 30% payment should have been made against delivery of goods and rest with 45 days post dated cheque. However, Respondent Company defaulted in making the payments.

4. It is submitted by the petitioner in Form 5, Part IV that amount claimed to be in default is Rs. 45,72,479.45/- (Rupees forty five lakh seventy two thousand four hundred seventy nine and forty five paise Only) including interest amount of Rs. 11,31,314.45. The default occurred on 30.11.2016 i.e. date on which last invoice of Rs. 13,61,189/- was issued wherein 30% was due on 30.11.2016 and 70% on 15.01.2017. Copy of total amount (Annexure V), statement of bank account (Annexure VI), Email communication between parties (Annexure VII), Form-C under Central Sales Tax (Annexure IX), Ledger (Annexure X) are attached with the main petition.



5. A demand notice in Form 4 is stated to be issued by the operational creditor on 29.12.2018 and the same has been delivered to the corporate debtor vide registered post as the postal receipts and tracking reports are attached at Annexure IV of the Petition. The corporate debtor had not replied to demand notice till date.

6. The notice of this petition has been issued to the corporate debtor to show cause as to why this petition be not admitted. The corporate debtor has filed reply/written statement vide diary No. 5773 dated 22.10.2019, wherein it is stated that the false entries were made in ledger account dated 01.04.2014 and 22.04.2014. Nothing has been indicated for period commencing April, 2014 till 22.04.2016. The payments reflected in ledger account were made by Corporate Debtor to Operational Creditor are further verified and corroborated by Bank statement. None of the transactions which took place between 30.04.2015 till 22.04.2016 have been reflected by Operational Creditor. It leads to inference that Operational Creditor has evaded payment of Excise Duty on manufacturing of goods. A debit note of Rs. 16 Lakhs was raised upon Operational Creditor on 12.11.2016 and vide email dated 27.04.2017 same has been acknowledged, however, it is not reflected in ledger account. As per the ledger account, they have raised a debit note dated 30.05.2017 on account of inferior quality of goods manufacture and supplied by Operational Creditor. It was raised on account of notice received by Corporate Debtor dated 26.04.2017 from Drugs Inspector, Food & Drugs Administration, Thane (W), pursuant to report dated 21.03.2017 indicating that goods were not of standard quality and to call that remaining stocks. The same was communicated to



Operational Creditor by email dated 23.05.2017. Another debit note of central purchases at 2% against C-forms were raised, however, it is not reflected in the ledger account. In the books of account maintained an amount of Rs. 3,72,138.97 is due from Operational Creditor. In the notice dated 29.12.2018 addressed to Corporate Debtor shows total invoice amount of Rs. 44,90,286/- out of which Rs.10,49,121/- has been received and acknowledged. The Corporate Debtor states that this notice has never been received.

7. The rejoinder was filed vide Diary No.810 dated 29.01.2020, wherein it is stated that the Operational Creditor maintains books of account on year to year basis and Page No. 504 reflects transaction for financial year 2016-17 with opening date as 01.04.2014, opening balance as Rs. 78,870.50 outstanding on 31.03.2016 against three unpaid invoices. The Road Permit Form No. DS2 ID 12114653 dated 04.04.2017 was provided by Corporate Debtor vide email dated 04.04.2017 and material was dispatched through Vehicle No. DL1LW-1007. The corporate debtor issued Form-C against all three pending invoices. The adjustment of debit note of Rs. 16 Lakhs dated 12.11.2016 has already been made by supplying fresh goods and has no impact on financial outstanding amount. The Corporate Debtor neither issued any debit note dated 30.05.2017 and 31.05.2017 nor returned any material to Operational Creditor. The corporate debtor while filing GST Trans-1 for claiming input tax credit has not given any reference to debit notes dated 30.05.2017 & 31.05.2017. The Operational Creditor has received notice from Assistant Commissioner, CGST, Delhi for verification of input tax credit where no reference of debit notes is recorded.



8. The short written submissions have been filed by petitioner vide Diary No.00202/02 dated 25.12.2022 and by respondent corporate debtor vide diary No.00202/03 dated 20.01.2023.

9. We have heard the learned counsel for the petitioner and corporate debtor and have perused the records.

10. The first issue for consideration is whether the demand notice in Form 4 dated 29.12.2018 was properly served. The demand notice has been delivered to the corporate debtor vide registered post as the postal receipts and tracking reports are attached at Annexure IV of the Petition. The corporate debtor had not replied to demand notice till date. Therefore, the demand notice was duly served.

11. The next issue for consideration is whether the operational debt was disputed by the corporate debtor. It is deposed by way of affidavit by Operational Creditor that no notice of dispute was given by Corporate Debtor relating to a dispute of unpaid operational debt.

However, it is contended by corporate debtor that a debit note of Rs. 16 Lakhs was raised upon Operational Creditor on 12.11.2016 and vide email dated 27.04.2017 same has been acknowledged, but it is not reflected in ledger account. As per the ledger account, they have raised a debit note dated 30.05.2017 on account of inferior quality of goods manufacture and supplied by Operational Creditor. It was raised on account of notice received by Corporate Debtor dated 26.04.2017 from Drugs Inspector, Food & Drugs Administration, Thane (W), pursuant to report dated 21.03.2017 indicating that goods were not of standard quality and to call that remaining stocks. The same was communicated to Operational Creditor by email dated



23.05.2017. Another debit note of central purchases at 2% against C-forms were raised, however, it is not reflected in the ledger account. However, the operational creditor has submitted that The adjustment of debit note of Rs. 16 Lakhs dated 12.11.2016 has already been made by supplying fresh goods and has no impact on financial outstanding amount. The Corporate Debtor neither issued any debit note dated 30.05.2017 and 31.05.2017 nor returned any material to Operational Creditor. The corporate debtor while filing GST Trans-1 for claiming input tax credit has not given any reference to debit notes dated 30.05.2017 & 31.05.2017. The Operational Creditor has received notice from Assistant Commissioner, CGST, Delhi for verification of input tax credit where no reference of debit notes is recorded.

Although, the respondent-corporate debtor has contended that the amount is not due, however, there is no supporting documents placed on record to prove the claim in hand. Apart, there is no cogent evidence available on record to support the plea of Corporate Debtor regarding two debit notes dated 30.05.2017 and 31.05.2017. Therefore, there is no pre-existing dispute between the parties.

12. The other issue for consideration is whether this application is filed within limitation. A demand notice issued dated 29.12.2018 in Form 4 attached as Annexure IV was duly served on the corporate debtor. However, the period of limitation would begin from the date of default i.e. 30.11.2016 i.e. date on which last invoice of Rs. 13,61,189/- was issued wherein 30% was due on 30.11.2016 and 70% on 15.01.2017. This application was filed vide Diary No. 3138 on 02.07.2019. Therefore, this Adjudicating Authority finds that this application is filed within limitation.



13. We have gone through the contents of the application filed in the Form 5 and find the same to be complete. As discussed above, there is a total unpaid operational debt (in default) of Rs. 45,72,479.45/- (Rupees forty five lakh seventy two thousand four hundred seventy nine and forty five paise Only) as mentioned by the operational creditor, however, in the demand notice served by the operational creditor in the details of debt due, Rs.10,49,121/- is stated to be received by the operational creditor. Therefore, the remaining total unpaid operational debt (in default) is of Rs. 34,41,165/-. Even if the corporate debtor has submitted that in the Ledger account maintained by the corporate debtor an amount of Rs. 3,72,138.97 is due from Operational Creditor. However, still the pending amount of Rs. 34,41,165/- (Rupees Thirty Four Lakhs Forty One Thousand One Hundred Sixty Five Only) is reflected which is above the threshold limit and amounts to default.

Copy of total amount (Annexure V), statement of bank account (Annexure VI), Email communication between parties (Annexure VII), Form-C under Central Sales Tax (Annexure IX), Ledger (Annexure X) are attached with the main petition. Accordingly, the petitioner proved the debt and the default, which is more than Rupees one lakh (prior to the amendment in threshold limit of one crore vide notification No. S.O.1205(E) dated 24.03.2020) by the respondent-corporate debtor.

14. It is noted that the corporate debtor has failed to payback 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 that from the aforesaid discussed facts that the liability of the corporate debtor is



undisputed. Accordingly, the petitioner proved the debt and the default, which is above threshold limit.

15. 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 CIR Process in the case of the Corporate Debtor, **Life Essentials Personal Care Private Limited** and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

16. In Part-III of Form No. 5, no Interim Resolution Professional (IRP) has been proposed by the petitioner. The Law Research Associate of this Tribunal has checked the credentials of Mr. Vipul Garg and there is nothing adverse against him. In view of the above, we appoint Mr. Vipul Garg, Registration No. IBBI/IPA-001/IP-P00462/2017-2018/10805, E-mail: vipul_ca@rediff.com, Mobile No. +91-9896046612, the Interim Resolution Professional with the following directions:-

i.) The term of appointment of Mr. Vipul Garg shall be in accordance with the provisions of Section 16(5) of the Code; subject to his written consent to be filed within 7 days 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.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation



by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order. For retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. 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.

vii.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii.) 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 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

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

17. We declare the 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;



- 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, if any, 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 petitioner is directed to deposit an amount of ₹1,00,000/- (Rupees One lakh 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.

21. 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 a copy of this order to the Interim Resolution Professional at his email address forthwith.

22. This petition is accordingly admitted.

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

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

July 06, 2023
PKA/TB