

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**JAIPUR BENCH**

**CORAM: DR. POONDLA BHASKARA MOHAN,  
HON'BLE JUDICIAL MEMBER**

**SHRI RAGHU NAYYAR,  
HON'BLE TECHNICAL MEMBER**

**Company Petition No. (IB)- 159/9/JPR/2019**

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

**IN THE MATTER OF:**

**M/S SONA PROCESSORS (INDIA) LIMITED**

**...OPERATIONAL CREDITOR/  
APPLICANT**

**VERSUS**

**G.P. COTTFAB PRIVATE LIMITED**

**...CORPORATE DEBTOR/  
RESPONDENT**

**For the Applicant:**

**ANKIT SAREEN, ADV.  
PRAKUL KHURANA, ADV.**

**For the Respondent:**

**NONE-APPEARED**



**MEMO OF PARTIES**

**M/s Sona Processors (India) Limited**  
**Office At: - Shop No. 2, Sangam Tower,**  
**Near Old R.T.O. Gandhi Nagar, Pur Road,**  
**Bhilwara- 311001 (Rajasthan)**

**...Operational Creditor/Applicant**

**VERSUS**

**G. P. Cottfab Private Limited**  
**Registered Office at: "Krishna",**  
**10-K-14 RC Vyas Colony**  
**Bhilwara- 311001 (Rajasthan)**

**...Corporate Debtor/Respondent**

**Order Pronounced On: 12.09.2019**

**ORDER**

1. This Application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule-6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/S Sona Processors (India) Limited (for brevity 'Applicant') claiming to be an Operational Creditor with a prayer for initiation of Corporate Insolvency Resolution Process against G.P. Cottfab Private Limited (for brevity "Corporate Debtor"). This Application is filed through Mr. Naresh Kumar Gattani an Authorised Representative of the Applicant, authorised vide Board Resolution dated 10.05.2019.

M/S Sona Processors (India) Limited  
Versus  
G.P. Cottfab Private Limited





2. The Applicant is a Public Limited Company incorporated under the provisions of the Companies Act, 1956, duly registered with the Registrar of Companies, Jaipur bearing CIN: U17117RJ1993PLC007381 and the Registered Office of the Applicant is located at Shop No. 2, Sangam Tower, Near Old R.T.O. Gandhi Nagar, Pur Road, Bhilwara- 311001 (Rajasthan). The Applicant is running a textile processing unit at Bhilwara.
3. The Corporate Debtor is a Private Limited Company incorporated under the provisions of Companies Act, 2013 on 25.08.2014, duly registered with the Registrar of Companies, Jaipur bearing CIN: U17290RJ2014PTC046128 and the Registered Office of the Corporate Debtor located at "Krishna", 10-K-14 RC Vyas Colony Bhilwara- 311001 (Rajasthan).
4. On perusal of the application and documents filed by the applicant it is seen that the Corporate Debtor had sent raw material to the Applicant for processing i.e. for conversion of raw material into Marketable Product and in view of which the Applicant has raised invoices against the Corporate Debtor. Copies of various invoices raised from 28.12.2017 to 12.04.2018 are annexed as Annexure-5 with the Application. The Applicant has submitted that the Corporate Debtor used to make payments through Cheques or NEFT/RTGS transfers and has never made direct cash payment to the Applicant. It is further seen from the documents filed by the Applicant that the Corporate Debtor has issued 30 cheques in favour of the Applicant of a

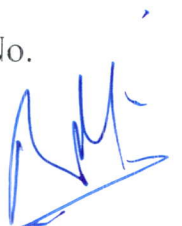
total amount of Rs.79,89,684/- but on presentation of these cheques for encashment, they were bounced with remark "Payment stopped by drawer" on 27 cheques and remark "Exceeds Arrangements" on 3 cheques. Copy of Return Memo report dated 06.06.2018 of all Cheques are annexed as Annexure-8. On repeated requests by the Applicant for payment of the due amounts, the Corporate Debtor has given false assurances that payment will be made in the near future. Thereby on non-receipt of payment, the Applicant has sent Notice dated 08.02.2019 under Section 8 of the Insolvency and Bankruptcy Code, 2016 for an amount of Rs. 1,23,94,569/- (Rupees One Crore Twenty-Three Lakhs Ninety-Four Thousand Five Hundred and Sixty-Nine) including interest @18 % of Rs. 15,53,755/- (Rupees Fifteen Lakh Fifty-Three Thousand Sven Hundred and Fifty-Five) on the Corporate Debtor at its registered address though post which was returned as the premises was closed and there was no one to receive the notice. Thereafter the applicant has sent the aforesaid demand notice through email on 22.02.2019 and also a reminder email on 23.03.2019 at the registered email address of the Corporate Debtor as mentioned on the Ministry of Corporate Affairs website but the Corporate Debtor has neither replied to the Demand Notice nor raised any dispute of the unpaid Operational Debt. Thus, the applicant filed the present application under section 9 of Insolvency and Bankruptcy Code, 2016.

5. The total amount claimed by the applicant as mentioned in Part IV is a sum of Rs. 1,23,94,569/- (Rupees One Crore Twenty-Three Lakhs Ninety-Four Thousand Five Hundred and Sixty-Nine) including interest as an outstanding amount which is due and payable by the corporate debtor as described below:

## PART IV

Sr. No.	Particulars of Operational Debt	
1.	Total amount of debt, details of transactions on account of which debt fell due, and the date from which such debt fell due.	Rs. 1,23,94,569/-
2.	Amount claimed to be in default and the date on which the default occurred	Total amount of debt claimed to be in default is Rs. 1,08,40,814/- principal + Rs. 15,53,755/- interest) Total Debt: Rs. 1,23,94,569/- Date from which such debt fell due: 26.02.2018

6. An Affidavit under Section 9(3) (b) to the effect that no reply notice is given by the Corporate Debtor relating to a any dispute of the unpaid operational debt is filed by the Applicant.
7. A perusal of the records of the proceeding before this Tribunal shows that the envelope containing the notice of Application was returned by the postal authorities with the endorsement "Door Locked". Thus, on 01.08.2019 this Tribunal has ordered for substituted service of summons to the Corporate Debtor and in compliance of the said order the Applicant vide Dairy No.

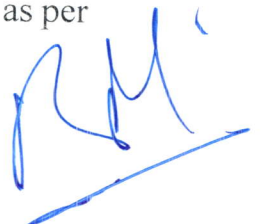



146/2019 has filed Affidavit of Service along with Copy of Newspaper Publication. Despite service of notice upon the Corporate Debtor by all feasible modes and in view of its non-appearance, this Tribunal was constrained to proceed ex-parte against the respondent and the submissions of learned counsel for the Applicant were heard and orders were reserved on 27.08.2019.

8. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of the Corporate Debtor is situated in Bhilwara, Rajasthan and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the purview of Law of Limitation.
9. It is apparent from the records that the payment of claim amount has been defaulted by the Corporate Debtor as despite the issuance of Section 8 notice under the Insolvency and Bankruptcy Code, 2016 by the Operational Creditor and the receipt of the same by the Corporate Debtor, the payment was not made. In these circumstances the claim stands established and prima facie presumption raised that there is default in payment of the amount due to the Operational Creditor and no dispute is in existence. Hence, this Tribunal is inclined to initiate the proceedings namely, Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor as envisaged under the Provisions of IBC, 2016.



10. The Applicant has named the Interim Resolution Professional (IRP) to be appointed by the order of this Tribunal, one Mr. Prashant Agarwal having Registration Number IBB/IPA-001/IP-P00053/2017-18/10127 (email: [ippagrawal@gmail.com](mailto:ippagrawal@gmail.com), Mobile No. : 9828355000), duly registered with Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional. The Applicant has filed consent in Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 stating therein that no disciplinary proceedings are pending against the named IRP.
11. The consequences of initiation of CIRP shall be inter alia are as follows: -
- (i) The Resolution Professional Mr. Prashant Agarwal, having Registration No. IBB/IPA-001/IP-P00053/2017-18/10127 is hereby appointed as the Interim Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the Provisions of IBC, 2016, including issue of publication in widely circulated newspapers as contemplated under the Provisions of IBC, 2016 and calling for the claims from the creditors of the Corporate Debtor and collating of the same shall be done.
  - (ii) Further as a consequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during CIRP of the Corporate Debtor. The IRP shall carry out the Corporate Insolvency Resolution Process strictly as per



the timelines specified and as envisaged under the Provisions of IBC, 2016 in relation to the Corporate Debtor.

- (iii) The said IRP shall act strictly in compliance with the provisions of IBC, 2016. With a view to defray his expenses to be incurred and fees on account, the Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Two Lakh only) to the account of IRP within 3 days from the date of this order. The IRP shall duly file the status report appraising this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Sections 17 and 19 of IBC, 2016 all personnel of the Corporate Debtor including its promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.
- (iv) In terms of Section 9 of IBC, 2016 a copy of this order shall be communicated to the Operational Creditor, Corporate Debtor as well as the Interim Resolution Professional appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.

In the circumstances this Application is admitted.

Sd-

SH. RAGHU NAYYAR,  
MEMBER (TECHNICAL)

Sd-

DR. POONDLA BHASKARA MOHAN  
MEMBER (JUDICIAL)

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