IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH

C.P. (IB) 2534/MB/2019

Under Section 8 & 9 of the IBC, 2016

In the matter of

Himgiri Textiles

A-501, Swapanalok Towers, Off Film City Road, Pimpripada Road, Malad (E), Mumbai-400097

.... Petitioner

v/s.

Shirt Company (India) Private Limited

2, Brady Glady Plaza, 1/447 Senapati Bapat, Marg Lower Parel, Mumbai-400013

…. Corporate Debtor

Order Delivered on: 26.02.2020

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Petitioner: Adv. Sumitra Kajale
For the Corporate Debtor: Adv. Sumit Patni i/b Adv. Govind B. Salunke

Per: Suchitra Kanuparthi, Member (J)

ORDER

1. This Company Petition is filed by Himgiri Textiles (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Shirt Company (India) Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment of ₹84,31,461/- along with future interest @24% p.a. by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016. This Petition was filed on 03.07.2019 by the Petitioner.
2. The Petition states that the Petitioner is a proprietorship firm dealing with supply of various types of fabrics and the same where supplied to the Corporate Debtor of worth ₹92,11,603/-. The Petitioner raised several invoices upon the Corporate Debtor pursuant to delivery of products. After necessary deductions the balance amount of

₹84,31,461/- is due for payment. The Corporate Debtor failed and neglected to pay the amount due to the Petitioner.

3. On the account of non-payment of the due, the Petitioner issued Demand Notice dated 07.05.2019 in Form 3 under Section 8 of the I&B Code, 2016 to the Corporate Debtor demanding payment of ₹84,31,461/- along with future interest @24% p.a. However, the Corporate Debtor failed to respond to the demand notice.
4. The Petitioner has annexed the copies of Purchase Orders, Invoices and Delivery Challans which were acknowledged by the Corporate Debtor with respect to total outstanding amount due by the Corporate Debtor to the Petitioner. Also, the Petitioner has annexed the dishonored cheques worth ₹8 lacs which were given by the Corporate Debtor to the Petitioner. The Ledger Account for financial years 2016-2017, 2017-2018 and 2018-2019 of the Corporate Debtor and letter from the bank under Section 9(3)(c) of the Code are annexed by the Petitioner to show that no payment has been made by the Corporate Debtor towards the debt amount.
5. The Corporate Debtor neither replied to the demand notice nor filed reply to the Petition. During the hearing on 11.02.2020, the Counsel for the Corporate Debtor admitted the liability towards the debt amount and raised no defense.
6. On the perusal of the above facts, it is clear that the Corporate Debtor has defaulted in making payment of outstanding amounts under the invoices claimed by the Petitioner. Hence, there is clear debt and default.
7. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

   (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where lessor where such property is occupied by or in the possession of the Corporate Debtor.

(b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(d) that the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the CIRP 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.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Vakati BalaSubramanyam Reddy, having Registration No. IBBI/IPA-001/IP-P00662/2017-18/11131 as an Interim Resolution Professional to carry out the functions as mentioned under the Code.

8. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-	SD/-
Chandra Bhan Singh	Suchitra Kanuparthi
Member (Technical)	Member (Judicial)