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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP/IB/43/CHE/2022

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w
Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)*

*In the matter of **Prism Feeds India Private Limited***

PRATISHTHA COMMERCIAL PRIVATE LIMITED

Represented by its Director
Mr. Jay Prakash Poddar,
109, Old China Bazar Street,
4th Floor, Room No. 401,
Kolkata-901001.

... Operational Creditor

-Vs-

PRISM FEEDS INDIA PRIVATE LIMITED

Registered Office:
9/1, Srinivasa Complex,
R. S. Puram, Mahalingapuram Post,
Pollachi, Tamil Nadu-642002.

...Corporate Debtor

Order Pronounced on 19th April, 2022.

CORAM :

**R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Operational Creditor : Mr. S. Karunamoorthy, Advocate

For Corporate Debtor : Ex-Parte.

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This Application has been filed by one **PRATISHTHA
COMMERCIAL PRIVATE LIMITED** (hereinafter referred to as

'Operational Creditor') on 28.2.2022 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, against **PRISM FEEDS INDIA PRIVATE LIMITED** (hereinafter referred to as 'Corporate Debtor'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. From Part-I of the Application, it is seen that the Operational Creditor is a Private Limited Company with CIN No. U19299WB1999PTC083113, having its address as 107, Old China Bazar Steet, 4th Floor, Room No. 401, Kolkata-700001. The application has been signed by Mr. Jay Prakash Poddar who has been authorized by Board Resolution dated 10th Feb. 2022.

3. Part II of the Application lays down the details of the Corporate Debtor. It can be seen that the Corporate Debtor is a private limited company incorporated under the Companies Act, 1956 on 22/03/2013 with CIN: U15331TZ2012PTC018225. The registered office of the Corporate Debtor as per the MCA master data is situated at 7/1, Srinivasa Complex, R S Puram Mahalingapuram Post Pollachi TN 642002.



4. From Part-III of the Application, it is seen that the Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP).

5. From Part-IV of the Application, it is seen that the Operational Creditor has claimed a sum of Rs.1,48,95,932/- as on 15.01.2022, comprising of principal sum of Rs. 1,22,91,317 and interest calculated @ 24% per annum amounting to Rs. 12,30,252/, calculated upto 15.01.2022, which is due and payable by the Corporate Debtor. The detailed computations of the debt owned is placed as Annexure II (G) of the Application typeset filed by the Operational Creditor. The date of default as averred in Part-IV of the Application is 22.12.2021. The details of invoices is placed at page 95A of the application.

6. Part V of the application describes the particulars of Operational Debt, documents, records and evidence of default.

Following documents have been attached with the application :-

a. Bank statement from April 01, 2021 to January 31, 2022, Annexure II (H).

b. Copies of purchase orders issued by the Corporate Debtor, Annexure II (C).



- c. Copies of Outstanding invoices, Annexure II (D).
- d. Copy of Debit Notes towards interest on delay payment along with proof of dispatch and tracking, Annexure II (E).
- e. Ledger Statement of Corporate Debtor in the books of the Operational Creditor, Annexure II (F).
- f. Copy of Demand Notice dated 25.01.20-22 along with the original postal receipt and postal tracking report, Annexure – I (A) and (B).

7. It is submitted by the Ld. Counsel for the Operational Creditor that M/s. Prism Feeds India Private Limited (hereinafter referred to as the "Corporate Debtor "), had placed several purchase orders on the Operational Creditor to Purchase Soya Doc, Mustard Doc (RSE) and such other raw materials (goods) during the period March 30, 2021 to December 20, 2021.

8. The Operational Creditor had supplied the Goods as per specifications of the Corporate Debtor and all such goods has been received and appropriated by the Corporate Debtor. Several Invoices were raised by the Operational Creditor on the Corporate Debtor during the period April 2, 2021 to December 22, 2021. The aggregate amount of such invoices is Rs. 1,22,91,317/-. Proof of receipt of goods by the Corporate Debtor placed on record.

9. It was submitted that the Corporate Debtor failed to pay the outstanding invoices as on 15/01/2022. As per the terms and condition of Sale Invoices, all late payments attract interest @ 24% PA. Such interest aggregates to Rs. 13,74,363/- upto 15/01/2022 and that the total amount outstanding along with interest is Rs.1,48,95,932/-.

10. The Ld. Counsel for the Operational Creditor submitted that the Demand Notice u/s 8 of IBC, 2016 dated 27/01/2022 was issued on the Corporate Debtor by the Operational Creditor. The same was received by the Corporate Debtor on 01/02/2022, however the Corporate Debtor failed to reply the same and neither paid any amount to the Operational Creditor. Affidavit of no dispute u/s 9 (3) (b) of IBC, 2016 is placed at Annexure IV. Ld. Counsel seeks commencement of CIRP proceedings on the Corporate Debtor

11. Despite sufficient opportunity given to the Corporate Debtor, no appearance was filed before this Tribunal. Notice was issued by the Registry on 28.02.2022 and as per the tracking report available on record the same was delivered on 01.03.2022 at the registered office of the Corporate Debtor. The Respondent Corporate Debtor was set *ex-parte* by order dated 08.03.2022, on said date too the matter was passed over and was taken up again. During the next

hearing on 01.04.2022, the matter was passed over due to non-representation of the Respondent and taken up later, however none represented the Respondent and no IA was filed for setting aside ex-parte order. Hence this Adjudicating Authority proceeded with the matter.

12. Further, it is also pertinent to note that the default arising in the present Application is much later to the timeline prescribed under Section 10A of IBC, 2016. Under the said circumstances, this Tribunal is left with no other option than to proceed with the present case and initiate the Corporate Insolvency Resolution Process in relation to the Corporate Debtor.

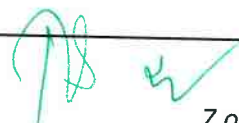
13. The Operational Creditor has not proposed the name of IRP. **Mr. S. Dehaleesan** (dehaleesan@gmail.com), **Reg. No. IBBI/IPA-001/IP-P01807/2019-2020/12907** as the Interim Resolution Professional (IRP) from the panel of IRP recommended by IBBI for the period 01.01.2022 to 30.06.2022, upon verification from the IBBI website, it is seen that the Authorization for Assignment is granted to the said IRP till 05.12.2022. The proposed IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required

under the Statute, more specifically in terms of Section 15,19,18 of the Code and file his report within 30 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

14. As a consequence of the Application being admitted in terms of Section 9 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent 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 respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit,



registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

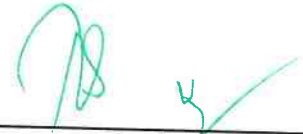
15. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) 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.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any Operational sector regulator or any other authority;



(b) a surety in a contract of guarantee to a corporate debtor.

16. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

17. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

18. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in

terms of Section 15, 19, 18 of the IBC, 2016 and file his report within 30 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

19. The IRP shall comply with the provisions of Sections 13 (2), 15, 19 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 of IBC, 2016 for the purpose of discharging his functions under Section 20 of IBC, 2016.

20. The IRP shall conduct the Corporate Insolvency Resolution Process in respect of the Corporate Debtor as stipulated under Chapter VIII of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

21. Based on the above terms, the Petition stands **admitted** in terms of Section 9 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also



be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned. Operational Creditor is directed to pay to IRP a sum of Rs. 2,00,000/- (Rupees Two Lakh) in order to meet the initial expenses.

22. The IRP is directed to file the 1st Progress Report before this Tribunal on or before the 45th day of initiation of CIRP by this Adjudicating Authority.

23. Post this CP/IB/43/CHE/2022 for hearing on **07.06.2022**.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)

Raymond