

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH-II,
KOLKATA**

C.P (IB) No.326/KB/2020

An application under 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 Prabhat Marketing Company Limited, Company incorporated under the Companies Act, 1956, CIN: U15139WB1954PLC021938, having its registered office at 26, Amherst Street, Kolkata-700009.

... Operational Creditor

Versus

In the matter of:

M/s Basu Tea Private Limited, a Company incorporated under the Companies Act, 1956 CIN: U15491WB2002PTC094708, having its registered office at 114, Harish Mukherejee Road, Bhowanipur, Kolkata-700025.

... Corporate Debtor

Date of Hearing :24.08.2022

Date of pronouncing the order : 28.10.2022

Appearances (through Video Conferencing/physical hearing)

For the Operational Creditor : Ms. Sonal Shah, Advocate
: Mr. Kushagra Shah, Advocate
: Mr. Aniket Chaudhary, Advocate

For the Corporate Debtor : Mr. Subhadip Biswas, Advocate

Coram:

Rohit Kapoor : ***Member (Judicial)***

Balraj Joshi : ***Member (Technical)***

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. This instant petition has been filed under section 9 of the Insolvency and Bankruptcy by **M/s Prabhat Marketing Company Limited**, a corporate entity, through its Director Mr. Rohitashwa Jalan, authorised vide Board Resolution dated 11/11/2019. (Annexure-B) (hereinafter referred as the Operational Creditor), seeking initiation of corporate insolvency resolution process in respect of **M/s Basu Tea Private Limited**, another corporate entity, (hereinafter referred as the Corporate Debtor).
2. It is submitted that Part –I of this petition contains particulars of the Operational Creditor. Part-II of this petition contains particulars of the Corporate Debtor.
3. Part –IV of the Petition contains details operational debt for an amount of Rs.5,86,700/-(Rupees Five Lakhs Eighty Six Thousand Seven Hundred Only) along with interest @ 18% per annum.
4. On 7th February 2022, the right to file reply affidavit was closed. It also appears from order dated 21st June 2022, a joint statement was made by both the parties that there are negotiations and the matter is likely to be settled.
5. Again, on 22nd July, 2022, this matter was adjourned in view of the statement made on behalf of the Operational Creditor that there is a settlement process.
6. However, there is no settlement and the matter was heard and reserved for orders.
7. In view of no reply on behalf of the Corporate Debtor, we have no option except to proceed accordingly.

8. The Operational debt is claimed for an amount of Rs. 5,86,700/-
9. After hearing the Ld. Counsel for the parties and perusing the record, we find;
 - i. Goods are stated to be supplied on and from the year 2012;
 - ii. Details of the invoices raised have been attached as **Annexure-H**.
 - iii. The Invoices pertaining from 22nd October, 2014 to 18th May, 2016 for a total amount of Rs. 5,86,700/- which is the total amount claimed along with interest in this petition;
 - iv. At page 6, it is stated by Operational Creditor that the last payment was made on 12th September, 2016 for a sum of Rs.26,200/-
10. It is further stated that despite reminders, no payment was made by the Corporate Debtor.
11. The Demand Notice under Section 8 is stated to have been issued on 19th June, 2019 and this petition has been filed before this Adjudicating Authority on 24th January, 2020.
12. From the above position, it is clear that this petition is barred by limitation. Therefore, the same is dismissed.
13. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Balraj Joshi)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

The order is pronounced on the 28th day of October, 2022