

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)- 24/9/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:

SANGAM SILVER ARTS LLP

**...OPERATIONAL CREDITOR/
APPLICANT**

VERSUS

SANGAM HANDICRAFT PRIVATE LIMITED

**...CORPORATE DEBTOR/
RESPONDENT**

For the Applicant:

SANDEEP KUMAR JAIN, ADV.

For the Respondent:

NONE-APPEARED

Sangam Silver Arts LLP
Versus
Sangam Handicraft Private Limited





MEMO OF PARTIES**SANGAM SILVER ARTS LLP**

Office At: - House No. – 203,
Tikkarmalka Rasta, Kishanpole Bazar,
Jaipur- 302001 (Rajasthan)

...Operational Creditor/Applicant

VERSUS

SANGAM HANDICRAFT PRIVATE LIMITED

Registered Office at: F-1, Vinay Path, Bani Park,
Jaipur-302016 (Rajasthan)

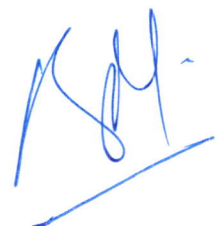
...Corporate Debtor/Respondent

Order Pronounced On: 25.09.2019

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 Sangam Silver Arts LLP (for brevity 'Applicant') claiming to be an Operational Creditor with a prayer for initiation of Corporate Insolvency Resolution Process against Sangam Handicraft Private Limited (for brevity "Corporate Debtor"). This Application is filed through Mr. Ronak Khandelwal an Authorised Representative of the Applicant, authorised vide Board Resolution dated 12.11.2018.

Sangam Silver Arts LLP
Versus
Sangam Handicraft Private Limited



2. The Applicant is a Limited Liability Partnership constituted under the provisions of LLP Act, 2008 on 17.07.2015, duly registered with Registrar of Companies, Jaipur bearing LLP Identification NO. AAE-4023 and the Registered Office of the Applicant is at House No. – 203, Tikkarmalka Rasta, Kishanpole Bazar, Jaipur- 302001 (Rajasthan). The Applicant is engaged in the business of manufacturing silver items.
3. The Corporate Debtor is a Private Limited Company incorporated under the provisions of the Companies Act, 1956 on 28.10.1997, duly registered with Registrar of Companies, Jaipur bearing CIN: U36911RJ1997PTC014378 and the Registered Office of the Corporate Debtor is at F-1, Vinay Path, Bani Park, Jaipur-302016 (Rajasthan).
4. It is the case of the Applicant that the applicant has supplied silver utensils to the Corporate Debtor, against which the Applicant has raised various invoices in the years 2015 and 2016. Copy of invoices are annexed vide Dairy No. 1634/2019. It submitted that the Corporate Debtor has defaulted in making payment. In order to make the payment both the parties had executed an agreement dated 16.08.2016 and it was mutually agreed that the Corporate Debtor shall make payment of the negotiated amount of Rs. 1,91,29,000/- (Rupees One Crore Ninety-One Lakh Twenty-Nine Thousand Only) along with interest @ 15% to the Applicant. Copy of Agreement is annexed as Exhibit- B with the Application. It was also agreed that the said



amount will be paid in 36 monthly instalments for which the Corporate Debtor has drawn and raised 36 cheques dated from 05.09.2016 to 05.08.2019 for Rs. 6,63,113 each inclusive of interest and the principal amount.

5. The Applicant submits that the full payment of cheques dated 05.09.2016 to 05.03.2017 and part payment towards cheque dated 05.04.2017 is made by the Corporate Debtor. The cheques falling due from 05.04.2017 to 05.09.2018 have been dishonoured with remark "Fund Insufficient". Copy of Return Memo report of all Cheques are annexed as Exhibit-F with the Application. In pursuance of dishonour of the cheque, the complaint under Section 138 of Negotiable Instruments Act, 1881 is filed by the Applicant.
6. The applicant has issued a notice dated 28.09.2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016 for an amount of Rs. 1,26,21,859/- including interest @ 15% P.A. of Rs. 12,45,385/- on the Corporate Debtor, which was duly received by Corporate Debtor through post on 15.10.2018. The demand notice was also sent through email dated 29.09.2018 but the Corporate Debtor has neither replied to the Demand Notice nor raised any dispute of the unpaid operational debt. Copy of tracking report as proof of service of the said Section 8 notice is annexed. Thus, the applicant filed the present application under section 9 of the Insolvency and Bankruptcy Code, 2016.

7. The total amount claimed by the applicant as mentioned in Part IV is a sum of Rs. 1,26,21,859/- 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. 1,26,21,859/-
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. 12621859/- including interest of Rs. 12,45,385/- Date from which such debt fell due: 03.08.2017

8. 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.
9. Perusal of the records of the proceeding before this Tribunal shows that the Learned Counsel Ms. Anubha Singh has appeared before this Tribunal on behalf of the Corporate Debtor and ample opportunity was given to file reply. On 26.08.2019 learned Counsel Ms. Anubha Singh has submitted that she has not received any instructions from the Corporate Debtor. Accordingly, she was discharged as withdrawn from the proceedings. Thus,




in view of non-appearance, this Tribunal was constrained to proceed ex-parte against the respondent and the submissions of the learned counsel for the Applicant were heard on 19.09.2019 and orders were reserved.

10. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of the Corporate Debtor is situated in Jaipur and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the purview of Law of Limitation.
11. It is apparent from the records that the payment of claim amount has been defaulted by the Corporate Debtor and despite the issuance of Section 8 notice under the Insolvency and Bankruptcy Code, 2016 by the Applicant 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 the presumption is raised that there is default in payment of the amount due to the Applicant 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 the IBC, 2016 and this application is admitted.
12. The Applicant has named the Interim Resolution Professional (IRP) to be appointed by the order of this Tribunal, one Mr. Nitin Sethi having Registration Number IBB/IPA-001/IP-P00565/2017-18/11041 (email: sethinitin77@hotmail.com, nitin@spcoindia.com, Mobile No. :



9414078378, 9799931119), duly registered with Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional. The Applicant has filed consent in Form 2 vide IA No. 137/JPR/2019 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. This I.A. No. 137/JPR/2019 is hereby allowed along with this CP. No. (IB)- 24/9/JPR/2019.

13. The consequences of initiation of CIRP shall be inter alia are as follows: -
- (i) The Resolution Professional Mr. Nitin Sethi, having Registration No. IBB/IPA-001/IP-P00565/2017-18/11041s 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 the IRP's 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.

Accordingly, this CP. No. (IB)- 24/9/JPR/2019 is admitted.

Sd-

SH. RAGHU NAYYAR,
MEMBER (TECHNICAL)

Sd-

DR. POONDLA BHASKARA MOHAN
MEMBER (JUDICIAL)