



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA 1099/2023

In

CP (IB) No.384/MB-IV/2021

Under Section 9 of the IBC, 2016

In the matter of

**DEVADATTAM MULTITRADE
PRIVATE LIMITED**

[CIN: U51103MH2011PTC213059]

...Operational Creditor

v/s

**SHREE RAMCHANDRAN COMPLEX
PRIVATE LIMITED**

[CIN: U74120MH2012PTC239089]

...Corporate Debtor

Order Delivered on: 12.04.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner:

Mr. Manoj Kumar Mishra, Advocate.

For the Respondent:

None

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by **DEVADATTAM MULTITRADE PRIVATE LIMITED**,



("the Operational Creditor"), seeking initiation of Corporate Insolvency Resolution Process (CIRP) against **SHREE RAMCHANDRAN COMPLEX PRIVATE LIMITED**, ("the Corporate Debtor").

- 1.1. The Operational Creditor has filed this petition claiming an amount of Rs. 2,97,42,709. The date default as Specified in Part IV of the Petition is 09.04.2017.
- 1.2. The Operational Creditor had made supplies of Fabrics of various descriptions, based on the purchase order dated 03.02.2017 issued by the Corporate Debtor. The supplies were made in the huge quantities from 28 February, 2017 till 20 March, 2017. The quality of the materials was never disputed by the Corporate Debtor. The materials were supplied with the "payment terms of 20 days" and "levy of interest @ 18% p.a. on delayed payment" as mentioned in purchase order issued by the Corporate Debtor.
- 1.3. The operational creditor had made total sale of Rs. 37,73,24,346/- out of which payment of Rs. 35,99,78,496/- has been made by corporate debtor. The Corporate Debtor had stopped making further payments in spite of repeated reminders. The last payment received by the Corporate Debtor was on 31st March, 2019 for an amount of Rs. 1,24,78,496/-. The Corporate Debtor is liable to pay interest of Rs. 1,23,96,859 (18% p.a.) as per the terms mentioned in the purchase order.
- 1.4. The Operational Creditor issued Demand Notice on 17.03.2020 in terms of Section 8 of the Insolvency and Bankruptcy Code, 2016 in Form 3 of the Insolvency and Bankruptcy (Application to Adjudication Rules, 2017). The same returned back with remark "insufficient address". The Notice was sent on registered office address of the Corporate Debtor available on MCA website, according to section 12 of Companies Act the service is deemed to be



complete. The Operational Creditor has not received any reply from the Corporate Debtor till date.

- 1.5. The Corporate Debtor replied to the said demand notice on 09.03.2021. In the said reply to the demand notice the Corporate Debtor has miserably failed to explain how the Corporate Debtor is not liable to make the out-standing payment to the Operational Creditor.
2. The Corporate Debtor in its reply has stated that, they had purchased fabrics of various descriptions from the Operational Creditor amounting to Rs. 37,73,24,346/- out of which payment of Rs. 35,99,78,496/- is already been made by the Corporate Debtor; The Operational Creditor issued Form 3 on 17.03.2021 which was not delivered and returned back, the Form 3 was actually never delivered to the Corporate Debtor. In spite that, the Corporate Debtor is ready to pay the complete outstanding amount, but due to the slowdown in business, it was difficult to make the payment.
3. The Operational Creditor has proposed Mr. Rakesh Kumar Relan having Registration No IBBI/IPA-001/IP-P02009/2020-21/13119 but due to his poor health and other personal reasons, has withdrawn his consent has the proposed IRP of the Corporate Debtor. The Operational Creditor has obtained consent from Mr. Mayur Rajendrakumar Popat vide consent letter dated 09.01.2023 and has sought replacement of proposed IRP vide IA 1099/2023. The prayer in IA 1099/2023 is allowed and IA is disposed of accordingly.

Findings:

4. We have heard the arguments of Learned Counsel for Operational Creditor and Corporate Debtor and perused the records.
5. On perusal of the documents submitted by the Applicant, the Corporate Debtor in its reply has admitted the liability. It is clear that Operational Debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor



in payment of debt amount. Therefore, we find that it is a fit case for initiation of CIRP against the Corporate Debtor, and that the petition is filed within the limitation period. This Tribunal has jurisdiction to adjudicate the Company Petition filed by the Operational Creditor and that there is a Debt due & payable by the Corporate Debtor. Since, the debt and default exist and no pre-existing dispute has been brought to our notice, it is a fit case for admission u/9 of IBC,2016. Accordingly, we allow present petition.

ORDER

6. The petition bearing **CP (IB) No.384/MB-IV/2021** filed by **DEVADATTAM MULTITRADE PRIVATE LIMITED**, the Operational Creditor, under section 9 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **SHREE RAMCHANDRAN COMPLEX PRIVATE LIMITED** (“the Corporate Debtor) is **admitted**.
 - a) There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - (i) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;



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- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium, -
- (v) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
- (vi) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) The Operational Creditor has proposed Mr. Mayur Rajendrakumar Popat, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having Registration Number IBBI/IPA-001/IP-P01918/2020-2021/13046. He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI



Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.

- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.
- (k) **IA 1099/2023 in CP (IB) No.384/MB-IV/2021** is allowed and disposed of.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)
12.04.2023.

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)



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