

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II**

CP (IB) 3882/MB/C-II/2019

Under Section 9 of the Insolvency and Bankruptcy Code,
2016

In the matter of

M/s. V C Patel & Co

[Reg. No.: GUJ/BRD/143]

Near Ranoli Crossing, N. H. No.8, Po. Dashrath,
Vadodara – 391 740

... Operational Creditor/Applicant

Versus

CKDPACK Packaging Private Limited

[CIN: U21012PN2008PTC132413]

Flat No. 16, Building No. D, Kumar Classic, Aundh,
Pune – 411 007

...Corporate Debtor/Respondent

Order Delivered on 24.03.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Snehal Kamdar, PCA.

For the Corporate Debtor : Mr. Nitesh S. Nevshe, Advocate.

ORDER

Per: Shyam Babu Gautam, Member

1. This is a Company Petition filed under section 9 (“**the Petition**”) of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **M/s. V C Patel & Co (“the Operational Creditor”)**, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **CKDPACK Packaging Private Limited (“the Corporate Debtor”)**.
2. The Corporate Debtor was incorporated 14.07.2008 under the Companies Act, 1956. Its Corporate Identity Number (CIN) is **U21012PN2008PTC132413**. Its registered office is at Flat No. 16, Building No. D, Kumar Classic, Aundh, Pune – 411 007.

Brief Facts of the case:

3. Operational Creditor is a firm with Registration No. GUV/BRD/143 and has its registered office at Near Ranoli Crossing, N. H. No.8, Po. Dashrath, Vadodara – 391 740. The Firm is engaged in business of manufacturing and trading of all types of wooden packing boxes, timber, plywood, pallets, crates etc.

The Petitioner in the course of ordinary business supplied goods from March 2017 till April 2018.

4. Operational Creditor supplied goods worth Rs.1,33,74,893/- (Rupees One Crore Thirty-three Lakhs Seventy-four Thousand Eight Hundred Ninety-three only) and the Corporate Debtor admittedly has paid a sum of Rs.1,16,91,027/- (Rupees One Crore Sixteen Lakhs Ninety-one Thousand Twenty-seven only) to the Operational Creditor. Thus, there exists outstanding amount of Rs.16,83,866/- (Rupees Sixteen Lakhs Eighty-three Thousand Eight Hundred Sixty-six only) which is due and payable. The Operational Creditor in addition to above outstanding amount has also claimed interest of Rs.4,57,559/- (Rupees Four Lakhs Fifty-seven Thousand Five Hundred Fifty-nine only) on delayed payment.
5. The Operational Creditor served upon the Corporate Debtor a demand notice dated 09.10.2018 under section 8 of Insolvency and Bankruptcy Code, 2016 at Flat No. 16, Building No. D, Kumar Classic, Aundh, Pune – 411 007. Pursuant to service of notice, the

Operational Creditor has filed the present Petition stating date of default as 24.05.2019.

6. The Corporate Debtor through the affidavit in reply dated 20.01.2022 filed by its learned Counsel before this Tribunal as reply to the application of the Operational Creditor has not disputed the facts in para 4 above.

Reply Submitted by the Respondent Corporate Debtor:

7. **Jurisdiction:**

The Respondent argues that as per Section 2(29)(ii) of the Companies Act, the district court has the power to entertain such application. Further, the Respondent states that since the registered office of the Corporate Debtor is at Ahmedabad and it is not within the Jurisdiction of this Hon'ble Bench.

Findings:

8. We have heard the submissions of Applicant as well as the Respondent and perused the records.

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

CP (IB) 3882/MB/C-II/2019

9. The registered office of the Corporate Debtor as per Ministry of Corporate Affairs (MCA) records is Flat No. 16, Building No. D, Kumar Classic, Aundh, Pune – 411 007. As per Section 9(1) of Insolvency and Bankruptcy Code, 2016, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process. As per Section 5(1) of Insolvency and Bankruptcy Code, 2016, the “Adjudicating Authority”, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013. Hence, this bench has the Jurisdiction to entertain this application.
10. The Corporate Debtor has not brought to light any pre-existing dispute while replying to the demand notice as required under the Code.
11. The amount outstanding is above Rs. 1 lakh and since the present petition was filed before the amendment increasing threshold limit, the present petition is in compliance with section 4(1).
12. The Operational Creditor proposed the name of **CA Manilal Parsiya**, Registration No. IBBI/IPA-001/IP-P00215/2017-

18/10415 as IRP, upon scrutiny it is found that CA Manilal Parsiya does not hold valid Authorisation for Assignment therefore can not be appointed as IRP.

13. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

14. The petition bearing **CP (IB) 3882/MB/C-II/2018** filed by **M/s. V C Patel & Co**, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **CKDPack Packaging Private Limited [CIN: U21012PN2008PTC132413]**, the Corporate Debtor, is **admitted**.

15. 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;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

16. Notwithstanding the above, during the period of moratorium: -
- i. 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;
 - ii. 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;
17. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority 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.
18. 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.

19. The Tribunal hereby appoints **Mr. Balaji Prithviraj Singh**, Registration No. IBBI/IPA-001/IP-P-02020/2020-2021/13113, Office No 102, Kalpatru, Plot No 51, 52, Aditya Nagar, Near Suth Girni Chowk, Aurangabad, Maharashtra ,431001, Email: bpsinghandco@gmail.com as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
20. 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.

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

CP (IB) 3882/MB/C-II/2019

21. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees three 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).
22. 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.
23. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Pune, 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.
24. Ordered accordingly.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)
24.03.2022
SAM

Sd/-
JUSTICE P. N. DESHMUKH
Member (Judicial)