

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI (COURT No. IV)**

**COMPANY APPLICATION No. IB-3191/ND/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:**

**Bothra Plastic Industries Private Limited.... Applicant/  
Operational Creditor**

**Versus**

**I-Retailers Private Ltd. ...Respondent/  
Corporate Debtor**

**Order Pronounced on: 30 / 11/2021**

**Coram:**

**Dr. DeeptiMukesh, Hon'ble Member(Judicial)  
Ms. SumitaPurkayastha, Hon'ble Member (Technical)**

**MEMO OF PARTIES**

**Bothra Plastic Industries Private Limited.**

Having its registered office at  
X-53, Okhla Industrial Area  
Phase 2,  
NEW DELHI 110 020 ...

**Applicant/Operational Creditor**

**Versus**

**I-Retailers Private Ltd.**

Having its head office at  
Khasra No. 15/3, Block F  
Gali No. 9, Swaroop Nagar  
Delhi North West  
DELHI 110 042 ...

**Respondent/Corporate Debtor**

**Appearance:**

For the Applicant : Mr. Himanshu Kapoor

For the Respondent :

**ORDER**

**Per: Dr. Deepti Mukesh, Member (Judicial)**

1. The Present Application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by **Bothra Plastic Industries Private Limited**, through its Director Mr. Rishab Bothra who is duly authorized via Board Resolution dated 25.08.2019 (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against **I-Retailers Private Ltd.** (for brevity 'Corporate Debtor').

2. The Applicant is a Private Limited Company, incorporated under the Companies Act, 1956 duly registered with the Registrar of Companies, bearing CIN: U25209DL1981PTC012460 and having registered office at Okhla Industrial Area, New Delhi. The Applicant is a Del Crader Agent for Reliance Industries Ltd.
3. The corporate debtor is a Private Limited Company, incorporated under the provisions of companies Act, 1956 on 23.03.2016, duly registered with Registrar of Companies, New Delhi with CIN: U51109DL2016PTC293018 and having registered office at Swaroop Nagar, Delhi. The Authorized share capital of the Respondent is Rs.5,00,000.00 and Paid up share capital of the company is Rs. 5,00,000.00.
4. It is submitted by the applicant that they had sold Polypropylene CO Polymer to the corporate debtor on 12.06.2019 and 19.06.2019 and the corporate debtor had picked the consignments from the premises of the applicant and the said material was unloaded at the Corporate Debtor's Factory at Bhiwadi, Rajasthan. Pursuant to delivery of the said material the applicant had raised three invoices one dated 12.06.2019 and the other two dated 19.06.2019. As per the said invoices, the corporate debtor had to make payment of a sum of Rs. 17,21,679/- (Rupees seventeen lacs twenty-one

thousand six hundred and seventy-nine only). The corporate debtor issued cheque dated 01.08.2019 for Rs. 17,21,679/- which was dishonoured on presentation due to insufficient balance in the account. The applicant issued legal notice dated 16.08.2019 under Section 138 of the Negotiable Instruments Act, however, the corporate debtor failed to clear the payment and even did not reply the notice. Copies of the cheques and said notice are annexed to the application.

5. It is further submitted by the applicant that demand notice was issued under Section 8 of the IB Code dated 17.10.2019 in respect of unpaid operational debt which was duly delivered upon the corporate debtor on 21.10.2019. The applicant has filed affidavit of service along with track report with remark "item delivered" as proof of service.
6. On perusal of the record it is found that the notice issued by the Registry was served on the corporate debtor at the e-mail address mentioned in the master data in the month of March 2020 as well as once again in December 2020 and service affidavit has been filed. No reply has been filed by the corporate debtor. Since none appeared Corporate Debtor took proceed ex-parte.

7. The applicant has annexed to the application copies of all the documents like letter of authorization to file the application, invoices, demand notice along with proof of service, affidavit in support of the application and other related documents.
8. As per Form 5, Part IV, the corporate debtor is liable to pay an outstanding sum of Rs. 17,21,679/- (Rupees seventeen lacs twenty-one thousand six hundred seventy-nine only) plus interest @ 36% per annum. According to the applicant, the date of default is 19.06.2019.
9. The applicant has filed an affidavit under Section 9 (3)(b) which stands complied.
10. The registered office of the corporate debtor is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
11. The date of default as per Form 5 occurred on 19.06.2019 and the present application was filed on 06.11.2019, hence the debt is not time barred and the application is filed within the period of limitation.

12. Heard submissions made and perused the documents on record. The present application is complete and the Applicant is entitled to claim its dues. The corporate debtor has not filed any reply and none remained present on behalf of the corporate debtor, therefore, the corporate debtor is proceeded ex-parte. On perusal of the record we are convinced that the debt is due and payable and default has occurred, hence, the present application is admitted, in terms of section 9 (5) of IBC, 2016.
13. The applicant has not proposed the name of the Interim Resolution Professional (IRP), though, in form No. 5 it is mentioned that the applicant shall submit name of the IRP before the hearing date, therefore, we hereby appoint Mr. Bipin Garg, having Registration No: IBBI/IPA-001/IP-P-01940/2020-2021/13026 (Mobile No. 9910694826), having Email Address: [bipin.garg@me.com](mailto:bipin.garg@me.com) and having office at 506, Mercantile House, 15, Kasturba Gandhi Marg, Adjacent to British Council Building, New Delhi, National Capital Territory of Delhi 110 001 to act as the Interim Resolution Professional subject to the condition that no disciplinary proceedings are pending against such an IRP named who may act as an IRP in relation to the CIRP of the Corporate debtor and specific

consent should be filed in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and make disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 within a period of one week from the date of this order.

14. We direct the Operational Creditors to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Bipin Garg to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.
15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period,

terms of Section 14(2) to 14(4) of the Code shall come into force.

16. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

**SD/-**  
**Ms. SumitaPurkayastha**  
**Member (Technical)**

**SD/-**  
**Dr. Deepti Mukesh**  
**Member (Judicial)**

*KMN*