

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No147
CP(IB) 657 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Powertronics Control System

V/s

Intelligent Textile Engineering Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 02.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Pratik Thakkar

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

CP (IB) No. 657/9/NCLT/AHM/2019

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the matter of:

Powertronics Control System

B1-19, Shayona Estate,
Memco Char Rasta, Naroda Road,
Ahmedabad-380025.

.....Operational Creditor.

Versus

Intelligent Textile Engineers Private Limited

Plot No. 4, Vijay Textile Compound,
Narol, Narol-Vatva Road,
Ahmedabad-382405

.....Corporate Debtor.

Order Reserved on: 26.07.2021
Order Pronounced on: 02.08.2021

**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

For the Operational Creditor: Learned Counsel Mr. Pratik
Thakkar

For Corporate Debtor : None

ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. This application has been filed by Operational Creditor, namely, Powertronics Control System under Section 9 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor, namely, Intelligent Textile Engineers Pvt. Ltd. The amount of debt has been claimed at Rs. 14,10,613/- (Rupees Fourteen Lac Ten Thousand Six hundred and Thirteen only) plus interest thereon.
2. The facts, in brief, are that the Operational Creditor supplied the goods to the Corporate Debtor, however payment was not made, hence, this application was filed. No one appeared on behalf of the Corporate Debtor, however, reply has been filed. In the reply of the Corporate Debtor only ground which has been taken is that the debt is barred by limitation, hence, not maintainable. On the contrary, the Operational Creditor has claimed that the amount of debt is appearing in the balance sheet of the

Corporate Debtor and for this reason, learned counsel for the Operational Creditor drew our attention to page 92 of the paper book containing schedule of creditors for the Financial Statements ended on 31st March, 2017 which also contain figures for the Financial Year 2015-2016.

3. On perusal of record of the said balance sheet, the claim made by the Operational Creditor found to be correct. In view of the decision of Hon'ble Supreme Court in the case of *Asset Reconstruction Company (India) Limited vs. Bishal Jaiswal dated 15 April, 2020, (Civil Appeal No. 323 of 2021)* wherein it has been held that financial debt appearing in the balance sheet would amount to acknowledgement of debt. Hence, following the same, we hold that debt is not barred by limitation. Accordingly, the application filed by Operational Creditor under Section 9 of IBC, 2016 is liable to be admitted.
4. The name of IRP has not been proposed which is not mandatory in case of an application filed under Section 9 of IBC, 2016. Hence, we shall appoint an IRP from the list approved by IBBI. The petition is otherwise complete and defect free.

5. In view of the above discussion, we admit this application
and order as under:

ORDER

1. The application is admitted and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

(a) *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;*

(b) *transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

(c) *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 Act, 2002;*

(d) *the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the

Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

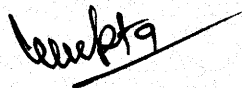
3. The Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoints **Mr. Balmukund Bhagchand Kabra, having Registration No: IBBI/IPA-001/IP-P00544/2017-18/10974 and having Email Address: bkabraco@yahoo.com** to act as an IRP under Section 13(1) (c) of the CODE.
4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate. IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing

an appropriate order.

5. This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the CODE.
6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.
7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs. 50,000/- (Rupees Fifty Thousand Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report.
8. The Registry is directed to communicate a copy of

this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.

6. Accordingly, CP (IB) No.657/9/NCLT/AHM/2019 is allowed.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Signed on this, the 2nd day of August, 2021.

Rajeev Sen/Stenographer