

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P.(IB)No.03/BB/2021
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

IN THE MATTER OF:

Mr. B. N. Sharath Patel,
Sole Proprietor of
M/s. Global Marketing
R/Add: Bheemasamudra,
Tq & Dist Chitradurga,
Karnataka – 577 520.

- Operational Creditor/ Petitioner

Versus

M/s. Maylari Agro Products Ltd.
R/Off: No.38/18, 1st Floor, 2nd Cross,
Industrial Suburb Lorry Stand and
Godown Sites Layout, Yashwanthpur,
Bangalore – 560 022.

- Corporate Debtor/Respondent

Date of Order: 18th March, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Operational Creditor : Mr. Manjeet, PCS

For the Corporate Debtor : None

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. This Company Petition is filed by Mr. B.N. Sharath Patel, Sole Proprietor of M/s.Global Marketing (the 'Petitioner/Operational Creditor') under Section 9 of the IBC, 2016 R/w Rule 6of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process in respect of Corporate Debtor on the ground that it has committed default for a total outstanding amount of Rs.2,43,04,626/-



(Rupees Two Crore Forty Three Lakh Four Thousand Six Hundred and Twenty Six only) including principal amount and interest.

2. It is stated that the Operational Creditor is engaged in the business of supplying food products and the Corporate Debtor is engaged in the business of food products. During the normal course of business, the Operational Creditor has supplied various food products to the Corporate Debtor vide various invoices which were duly received by the Corporate Debtor. The total unpaid debt against aforesaid invoices is Rs.2,43,04,626.
3. The Petitioner after making supply when demanded the money got shocked to know that the Corporate Debtor has no intention to pay the money or is not in position to pay the money. Further the Petitioner, with intent to resolve the said issue, made request time to time through various modes of communication but not find any satisfactory response.
4. The Operational Creditor through Speed Post send Demand Notice at the registered office of the Corporate Debtor under Section 8 of the IBC, 2016 read with clause (a) and (b) of sub-rule (1) of Rule 5 of the I&B(AAA) Rules, 2016 but does not receive any reply from the Corporate Debtor.
5. There is apprehension that the Corporate Debtor has no competency to run the Company and hence the insolvency proceedings should be initiated against the Corporate Debtor, hence this Petition.
6. Heard Mr. Manjeet, learned Counsel for the Operational Creditor/Petitioner and None appeared for the Corporate Debtor. We have carefully perused the pleadings of the party and the extant provisions of the Code and the Rules made thereunder.
7. It is seen that in CP (IB) No. 02/BB/2020 a Petition was filed u/s 9 of the Code by Smt. Yogitha Vijaykumar Proprietor of Shree Ratna Farm Products, being the Operational Creditor, against the same Corporate Debtor as in this Petition, namely Maylari Agro Products Ltd., seeking initiation of CIRP on account of default of a total amount of Rs.16,24,677/-. On the facts of the case in CP (IB) No. 02/BB/2020, this Adjudicating Authority ordered initiation of CIRP in respect of this Corporate Debtor and passed an order of the same date, appointing an Interim Resolution

Professional, Mr. S. Viswanathan, bearing Registration No. IBBI/IPA-001/IP-P00538/2017-18/10963, imposing moratorium etc.

8. Since, a CIRP has already been ordered in respect of the same Corporate Debtor, as in the present Petition, this Petition cannot be entertained, as the same is inadmissible. Liberty is, however, granted to the Petitioner/Operational Creditor in the instant petition to approach the IRP appointed in CP (IB) No 02/BB/2020, to present its claim, if any, against the Corporate Debtor.
9. In the result, the Company Petition bearing CP (IB) No.03/BB/2021 is hereby disposed of as above. No order as to costs.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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