

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 168/IBC/MB/2022

Under Section 9 of the Insolvency and
Bankruptcy Code, 2016 read with
Rule 6 of the Insolvency and
Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

ZENIL TRADERS PRIVATE LIMITED

Having registered office at: Office No.6
3rd Floor, Shahviri Building, 37/41,
R. S. Sapre Marg, Kalbadevi,
Mumbai- 400002

.....Operational Creditor

Vs

MAKALU TRADING LIMITED

(CIN: U51900MH1981PLC024687)
Registered office at: 1 Pearl Mansion
91 Maharshi Karve Road, Marine
Lines Mumbai- 400020

.....Corporate Debtor

Order delivered on: 05.04.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

For the Applicant: Ms. Mitali Bhatt, Advocate

For the Respondent: Mr. Neerav B Merchant, Advocate

1. The above Company Petition is filed by *M/s. Zenil Traders Private Limited* hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *M/s. Makalu Trading Limited* called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called “Code” read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Operational Debt of Rs. 1,50,80,400/.
2. The Corporate Debtor filed affidavit in reply admitting the claim amount in para 3 of their affidavit in reply and requested to this Bench to admit the above Company Petition. Para 3 of the affidavit in reply is as follows:

“...Para-3: The Corporate Debtor admits to the debt owned to the Operational Creditor amounting to Rs. 1,50,80,400/- (One Crore Fifty Lakhs Eighty Thousand & Four Hundred Only)...”
3. During the course of hearing also Mr. Neerav B Merchant, counsel appearing for the Corporate Debtor conceded in the open court that he has no objection for admission of the above Company Petition. In view of the above unconditional admission made by the Corporate Debtor, this Bench has no option except to admit the Company Petition. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 168 (MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against *M/s Makalu Trading Limited*.

- b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Rakesh Bothra** (ip.rakeshbothra@gmail.com) (Mobile No. 9022919819) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01758/2019-2020/12675 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- a. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- b. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- c. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- d. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- f. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- g. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- h. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- i. Accordingly, this Petition is admitted.
- j. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

**SHYAM BABU GAUTAM
MEMBER (TECHNICAL)**

SD/-

**H.V. SUBBA RAO
MEMBER (JUDICIAL)**