

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 3147/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Eroma Petrochemicals Private Limited
Shop No. F. F. 109, Ayana Complex, opp.
Suvarna Villa Bunglows, B/s President Park,
Thal Tejhebatpur Road, Ahmedabad - 380
054

.... Petitioner

v/s.

Sanjay Insecticides Private Limited
Gut No. 206, Village Panshendra, Devalgaon
Raja Road, Jalna - 431 203

.... Corporate Debtor

Order delivered on: 14.11.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Kush Gupta, Practising Company Secretary.

For the Corporate Debtor : None Present.

Per: V. Nallasenapathy, Member (T)

ORDER

1. This company Petition is filed by Eroma Petrochemicals Private Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Sanjay Insecticides Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the extent of Rs. 32,64,401/- including interest @ 18% p.a., by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that Petitioner has supplied chemicals to the Corporate Debtor and raised invoices during the year 2016 to the extent of Rs. 33,62,799/- and received a part payment of Rs. 98,398/- and the balance principal due is Rs. 32,64,401/-.



3. Petitioner has sent demand notice under Section 8 of the Code demanding a sum of Rs. 48,56,207/- on 04.06.2019 from the Corporate Debtor and the same was returned with an endorsement as "refused" and the refusal memo is enclosed to the petition.
4. Subsequently, this Petition has been filed and a copy of the Petition was sent to the Corporate Debtor which was also returned with an endorsement "refused". Further, registry has sent notice to the Corporate Debtor intimating the next date of hearing which was also been returned with an endorsement "refused".
5. Heard the Professional appearing for the Petitioner. There is no representation on the side of the Corporate Debtor. Counsel for the Petitioner submits that they are MSME enterprises and they are entitled to charge interest @ 18% as provided in the MSME Act, 2006. Accordingly, the interest is charged. Petitioner has also enclosed relevant invoices.
6. It is further submitted that cheque Nos. 868506 and 868507 for Rs. 14,00,000/- and Rs. 13,50,000/- respectively, issued by the Corporate Debtor was returned back with an endorsement "funds insufficient" when presented for payment. The Petitioner initiated proceedings under Negotiable Instruments Act against the Corporate Debtor on the file of Additional Chief Metropolitan Magistrate, No. 28 - Ahmedabad.
7. On going through the Form-5 filed by the Petitioner and hearing the arguments of the Professional, this Bench is of the view that the debt and default has been established and this Petition deserved admission.
8. One Mr. M. N. Bhalekar, office at Nilayam, 29 Vishwakarma Co-op Hsg. Society, CIDCO, N-8-E, Aurangabad - 431 003; having Registration No. IBBI/IPA-002/IP-N00373/2017-2018/11116 has given his consent in Form No. 2 to act as an Interim Resolution Professional.
9. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:
 - (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; 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



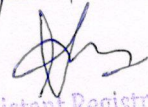
- Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) 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.
- (d) that the order of moratorium shall have effect from 14.11.2019 till the completion of the CIRP 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.
- (e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.
- (f) that this Bench hereby appoints Mr. M. N. Bhalekar, office at Nilayam, 29 Vishwakarma Co-op Hsg. Society, CIDCO, N-8-E, Aurangabad – 431 003; having Registration No. IBBI/IPA-002/IP-N00373/2017-2018/11116 as Interim Resolution Professional to carry the functions as mentioned under the Code.
10. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)



Certified True Copy
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On 03/12/2019


Assistant Registrar
National Company Law Tribunal Mumbai Bench