THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IB No. 557/(ND)/2020

IN THE MATTER OF:

M/s Bright Cove Goods
[Partnership Firm, Through its Partner}
A-3, Ground Floor, Swaroop Nagar
Delhi – 110042

...PETITIONER/ OPERATIONAL CREDITOR

VERSUS

M/s Adjoin Dreamprojects & Agro Pvt. Ltd.
C-14, Basement,
Greater Kailash Enclave-1,
New Delhi – 110048

Also, at
702-704, D-Mall, Netaji Subhash Place,
Pitam Pura. Delhi – 110034

Also, at
A-9, Basement, Dayanand Colony,
New Delhi - 110024

...RESPONDENT/ CORPORATE DEBTOR

Order Delivered on : 17.05.2022

Section: 9 of the Insolvency and Bankruptcy Code, 2016

CORAM:

MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)

MR. L. N. GUPTA, MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Arpita Das, Adv.

For the CD : Pradeep Kumar Mondal, Abhishek Vikram Adv.

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

M/s Bright Cove Goods **(the Applicant/Operational Creditor**) has filed this Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**'IBC, 2016'**) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 through its partner Shri Vikram Gupta with a prayer to initiate the Corporate Insolvency Resolution Process against M/s Adjoin Dreamprojects & Agro Private Limited (**'Corporate Debtor / Respondent'**).

2. The Corporate Debtor namely, M/s Adjoin Dreamprojects & Agro Private Limited with CIN U70101DL2013PTC258100 is a company incorporated on 19.09.2013 under the provisions of the Companies Act, 2013 having registered office at C-14, Basement, Greater Kailash Enclave- I, New Delhi DL-110048, which is within the jurisdiction of this Tribunal.

3. It is stated by the Applicant/Operational Creditor that the Corporate Debtor had approached them for supply of Brochures and material on credit basis with a promise to make payment upon supply of the said material. It is claimed by the Applicant that goods were supplied to the Corporate Debtor to the satisfaction of the Corporate Debtor. The Applicant has raised an invoice of Rs.3,15,315/- (Rupees Three Lakhs Fifteen Thousand Three Hundred and Fifteen only) on

28.02.2019 on the corporate debtor. However, despite repeated request and reminders, the Corporate Debtor failed to make payment of the said invoice. The Applicant has stated that the supplied material has already been utilized by the corporate debtor.

4. The Applicant further states that under the circumstances, it was constrained to issue a demand notice dated 29.01.2020 under Section 8 of the IBC, 2016 to the Corporate Debtor. The notice was duly served upon the Corporate Debtor.

5. As per Part-IV of the Application, an amount of 3,15,315/- (Rupees Three Lakhs Fifteen Thousand Three Hundred and Fifteen only) is due and payable by Corporate Debtor. The scanned copy of the Part IV of the Application is reproduced below :

PART IV

PARTICULARS OF OPERATIONAL DEBT

1. Total amount of debt, Details of transactions on account of which debt fell due, and the date from which such debt fell due	1) The Operational Creditor is a Partnership Firm, which is inter alia engaged in the business of manufacturing and sale of Brochures (for short "**the said material**"). 2) In the month of February, 2019, the Corporate Debtor Company through its Authorized Representative / Directors approached the Operational Creditor and requested the Operational Creditor to supply the said material on credit basis with a specific promise to make the payment upon supply of the same to the Corporate Debtor. 3) Believing the above representations and promise of the Corporate Debtor, the Operational Creditor supplied the

For Bright Cove Goods
Vikram Gupta
Partner

	said material to the Corporate Debtor to its entire satisfaction. **4)** The Operational Creditor raised the Invoice No. Feb / 10 dated 28.02.2019 for Rs.3,15,315.00 on the Corporate Debtor and submitted the same for payment. **5)** The Corporate Debtor has already used and utilized the said material in its business. **6)** However, despite repeated requests and reminders, the Corporate Debtor has miserably failed to liquidate the value of the said material, as per the said Invoice. Copy of the invoice No.Feb / 10 dated 28.02.2019 for Rs.3,15,315.00 is being filed along with the present Petition. **7)** The legitimate dues amounting to Rs.3,15,315/- have been illegally and unlawfully retained by the Corporate

For Bright Cove Goods
Partner

	Debtor, despite repeated requests and reminders of the Operational Creditor. **8)** In the given facts and circumstances, as per Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, the Operational Creditor got issued a Notice dated 29.01.2020 to the Corporate Debtor. **9)** But, instead of complying with the aforesaid Notice, the Corporate Debtor has failed to comply with the said Notice. **10)** Hence, the Operational Creditor has been constrained and compelled to initiate corporate insolvency resolution process against the Corporate Debtor. **11)** The present corporate insolvency resolution process is being initiated by the Operational Creditor

For Bright Cove Goods

Partner

2. Amount Claimed To Be In Default And The Date On Which The Default Occurred (Attach The Workings For Computation Of Amount And Dates Of Default In Tabular Form)	**Amount claimed to be in default:** Rs.3,15,315/- (Rupees Three Lakh Fifteen Thousand Three Hundred and Fifteen Only) **Date on which the default occurred:** Not applicable

6. That the Applicant has filed an affidavit dated 13.02.2020 in compliance of Section 9 (3)(b) of the IBC, 2016 and stated the Corporate Debtor has given no Notice of Dispute u/s 8(2) of IBC, 2016 in relation to the unpaid operational debt.

7. The Corporate Debtor has filed its reply to the aforesaid application and averred the following :

5. That subsequently on 28.02.2019, the Operational Creditor raised an Invoice for Rs. 3,15,315.00 (Rupees Three Lakh Fifteen Thousand Three Hundred and Fifteen) for payment against the supply of the said brochures.

6. That the Corporate Debtor submits that an amount of Rs. 3,15,315.00 (Rupees Three Lakh Fifteen Thousand Three Hundred and Fifteen) is due to the Operational Creditor by the Corporate Debtor for payment against the supply of the said brochures.

7. That the Corporate Debtor has been unable to complete the payment for the invoice dated 28.02.2019, due to the financial condition of the Corporate Debtor and the absence of liquid funds or assets, which is a result of slowdown in business due to the present market and economic conditions.

8. That the Operational Creditor issued a Notice dated 29.01.2020 to the Corporate Debtor for clearance of debt but due to the ongoing financial and business troubles, the Corporate Debtor has been unable to comply with the said Notice.

8. As per the averments of the Applicant in Part IV of its Application, a sum of Rs.3,15,315/- is due and payable. The Corporate Debtor in its own reply has stated in Para 6 that an amount of Rs.3,15,315/- is due and payable to the Operational Creditor for payment against the supply of brochures. Further, it has stated that due to lack of liquid funds/assets and its adverse financial condition, the Corporate Debtor is not in a position to make the payment.

9. In the circumstances, the amount of unpaid operational debt being of more than 1 Lakh and the Corporate Debtor having admitted its default in making the payment of the said debt, we are inclined to initiate the CIR Process against the Corporate Debtor.

10. In the given facts and circumstances, the Operational Creditor has established the default on the part of Corporate Debtor in payment of the operational debt. The Petition filed under Section 9 fulfills all the requirements of law. **Therefore, the petition is admitted in terms of Section 9(5) of the IBC. Accordingly, the CIRP is initiated and moratorium is declared in terms of Section 14 of the Code.** As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

> "(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 Securitization 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."

11. The Applicant has proposed the name of Mr. Jaswant Singh, having office at 17/15 2nd Floor, Ashok Nagar, New Delhi 110018 (email id csjaswantsingh@gmail.com) and Registration No. IBBI/IPA-002/IP-N00372/2017-2018/11135 to be appointed as IRP. The IRP abovenamed has filed his consent in Form 2 of Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rule, 2016 and disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016.

12. **Accordingly, this Bench appoints Mr. Jaswant Singh as IRP subject to the condition that no disciplinary proceedings are pending against the IRP as on date. The IRP shall file affidavit to this effect before this Tribunal. He is directed to take charge of the CIRP of the Corporate Debtor with immediate effect and take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.**"

13. The Operational Creditor is directed to deposit Rs.1,00,000/- (One Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

14. A copy of this Order shall be communicated immediately to the Operational Creditor, the Corporate Debtor and the IRP named above, by the Registry/Court Officer. The Court Officer will inform the IRP so appointed by all modes.

15. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their record.

Sd/-	**Sd/-**
(L. N. GUPTA)	**(ABNI RANJAN KUMAR SINHA)**
MEMBER (T)	**MEMBER (J)**

Since the Hon'ble Judicial Member Sh. Abni Ranjan Kumar Sinha is on leave, the pronouncement of the Order is made under Rule 151 of the NCLT Rules, 2016 in the open Court today i.e., on 17.05.2022 on behalf of the Bench.

(T.S. Singh)
Court Officer