

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

C.P. No. 228/I&B/2023

Under section 9 of the IBC, 2016

In the matter of

Rajat Textiles, a Partnership firm

having registered office at : Centre Point
Condominium, 243-A, N.M. Joshi Marg,
Opp. Bawla Masjid, Near Curry Road
Station, Mumbai – 400013.

.... Petitioner / Operational Creditor

V/s.

IRAA Clothing Private Limited

B-7/3, MIDC, Camlin Naka, Boisar
Tarapur, Thane, Maharashtra – 401506.

.... Corporate Debtor

Order Pronounced on: 25.08.2023

Coram:

**Mr. Anil Raj Chellan
Member (Technical)**

**Kuldip Kumar Kareer
Member (Judicial)**

Appearances:

For the Operational Creditor: Adv Nausher Kohli

For the Corporate Debtor: Adv. Sandeep a/w Adv. Raghav Taneja

ORDER

Per: - Kuldip Kumar Kareer, Member Judicial

1. This Company petition is filed by Rajat Textiles (hereinafter called “**the Operational Creditor**”) seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against IRAA Clothing Private Limited (hereinafter called “**Corporate Debtor**”) alleging that the Corporate debtor committed default in making payment to the Petitioner. This petition has been filed by invoking the provisions of Section 9 Insolvency and bankruptcy code (hereinafter called “**Code**”) read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on the ground that the Corporate Debtor has failed to make payment of a sum of Rs. 1,60,81,448.44/-.

The submissions by the Operational Creditor: -

2. The Operational Creditor is a Partnership Firm and is carrying on the business of Manufacturing and distribution of clothing material.
3. In the year 2017, the Operational Creditor and the Corporate Debtor entered into an arrangement of “*Demand & Supply*” wherein it was agreed that the Corporate Debtor would issue Purchase Order and the Operational Creditor would deliver the products as per the Purchase Order and upon the delivery of the material, the Operational Creditor would raise a Tax Invoice thereby calling upon the Corporate Debtor to pay the dues.
4. Pursuant to this, the Operational Creditor raised the Tax invoices which are as under :-

Sr. No.	Date	Ref. No.	Amount
1.	29.07.2019	40385	15,60,640/-
2.	03.09.2019	40820	19,87,316/-
3.	03.09.2019		6,16,632/-
4.	03.09.2019		11,73,208/-
5.	09.09.2019		2,21,980/-
6.	16.09.2019		3,67,568/-
7.	17.09.2019		3,98,687/-
8.	30.09.2019		10,35,610.50/-
9.	30.09.2019		11,08,876/-
10.	15.11.2019		8,18,988/-
11.	15.11.2019		6,57,658/-
12.	30.11.2020		1,77,790/-
13.	19.12.2020		1,91,292/-
14.	20.09.2021		3,89,277/-
15.	06.09.2021		24,76,803/-
16.	14.02.2023		33,64,900.44/-

17.	Credit Note		(1,60,60/-)
18.	Credit Note		(3,05,137/-)
	Total		1,60,81,448.44/-

5. Due to non-payment of the dues by the Corporate Debtor, the Operational Creditor addressed several emails from 10.10.2019 to 25.05.2021 regarding the Corporate Debtor, to release the payment at the earliest. In spite of the said emails, the Corporate Debtor failed and neglected to pay the due amount thereby constraining the Operational Creditor to issue reminder-1 dated 23.08.2022 thereby calling upon the Corporate Debtor to clear the outstanding dues. Subsequently, the Operational Creditor issued reminder-2 dated 14.10.2022 to which the Corporate Debtor replied vide letter dated 19.10.2022 stating that the Bank accounts of the Corporate Debtor are frozen and they were in the process of de-freezing their accounts.
6. The Corporate Debtor failed to clear the outstanding amount and the Operational Creditor sent reminder -3 dated 10.11.2022 and reminder-4 dated 15.12.2022 thereby again calling upon the Corporate Debtor to repay the outstanding dues.
7. However, no payments were made by the Corporate Debtor. Thereafter, due to the continued non-payment of dues, the Operational Creditor issued Legal Notice bearing No. Legal/04/2022-23 dated 31.01.2023 and called upon Corporate Debtor to pay a sum of Rs. 1,60,81,448.44/- by 14.02.2023 failing which the Operational Creditor will take a legal action for recovery of outstanding dues with interest @ 18% p.a.

8. As, the Corporate Debtor failed and neglected to make the payments as demanded, the Operational Creditor issued a Demand Notice under Section 8 of the Code dated 15.02.2023. Vide this Demand notice, the Operational Creditor claimed an amount of Rs. 1,60,81,448.44/-. The Corporate Debtor did not pay the default amount nor raised any pre-existing dispute at any point of time. Therefore, the Corporate Debtor has defaulted in payment of the dues. Hence the present petition.

Reply filed by the Corporate Debtor: -

9. The Corporate Debtor filed their Affidavit in Reply (“Reply”) dated 06.04.2023.
10. The Corporate Debtor submitted that the business operations of the Corporate Debtor was affected due to pandemic of Covid-19 from March, 2020 and hence all the business activities of the Corporate Debtor were closed.
11. The Corporate Debtor submitted that since it falls under the category of MSME, the operations of the Company were adversely affected and to keep the operations running, the Promoters of the Corporate Debtor infused personal savings and funds to pay the salaries and wages to its employees. Therefore, the Corporate Debtor was unable to repay and honour the payments against the invoices as raised by the Operational Creditor.
12. The Corporate Debtor incurred huge losses to the tune of Rs. 10.79 Crores during the Financial Year 2020-2021 due to Covid-19 pandemic and the Debtors of the Corporate Debtor did not pay nor took the delivery of the goods which compelled the Corporate Debtor to sell the outdated inventories at heavy discount incurring

huge losses.

13. The Corporate Debtor is in the process of arranging monies and investment to settle the dues of the Creditors including the Operational Creditor.
14. The Corporate Debtor is in great financial crunches hence there is nothing much to say in defence.

FINDINGS

15. We have heard the Counsel for the parties.
16. From the perusal of the records and document in hand, it is observed that the Corporate Debtor vide its letter dated 31.01.2023 has admitted its liability to pay to the Operational Creditor confirming that an amount of Rs. 1,60,81,448.44/- is due and payable to the Operational Creditor. The Corporate Debtor has also thereby attached ledger confirmation of the Operational Creditor as on 31.01.2023 and has admitted its liability to pay.
17. Further, during the course of arguments, the Counsel for the Corporate Debtor has simply showed the inability of the Corporate Debtor to pay the outstanding due of the Operational Creditor as the Corporate Debtor is facing heavy financial crunches and are not in a position to pay their dues. Further, on basis of the evidenced placed on record, the Operational Creditor has successfully established that the Operational Creditor has delivered the products as per the purchase orders from the Corporate Debtor and an amount of Rs. 1,60,81,448.44/- is due and default has occurred.

18. Considering the above facts and circumstances, the nature of Debt is an Operational Debt as defined under Section 5 (21) of the Code. There is a Default as defined under Section 3 (12) of the Code on the part of the Corporate Debtor.
19. Further, the Corporate Debtor has received the Demand Notice under section 8(2) of the Code but has not raised any pre-existing dispute.
20. The Operational Creditor has successfully demonstrated and proved the existence of debt and default in this case. The petition is otherwise within time. Hence this Bench is left with no option except to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 9 of the Code. **Accordingly, the petition is admitted in terms of the following:**

ORDER

- a. **The above Company Petition No. (IB) -228 (MB)/2023 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against IRAA Clothing Private Limited.
- b. This Bench hereby appoints **Mr. Prashant Jain**, Insolvency Professional, Registration No: **IBBI/IPA-001/IP-P01368/2018-2019/12131**

having correspondence address at Office No. 610, B-Wing, Plot No. 39/5A, BSEL Tech Park Sector 30A, Vashi, Navi Mumbai – 400703, email id :- ipprashantjain@gmail.com, as the Insolvency professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Operational Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. 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.

- e. 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.
- f. 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.
- g. 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.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

- i. 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.
- j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
MEMBER (JUDICIAL)