

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**CP (IB) No.3976/MB/C-IV/2018**

Under section 9 of the Insolvency &  
Bankruptcy Code, 2016

*In the matter of*

**Bee Athletic Private Limited**

[CIN: U18101HR2016PTC058144]

...Operational Creditor

Versus

**DSK Shivajians Football Club**

**Private Limited**

[CIN: U92190PN2012NPL145795]

... Corporate Debtor

**Order pronounced on : 10.06.2020**

***Coram:***

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)

Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Operational Creditor : Ms Priyanka Lokhande i/b  
Singhania & Partners, a/w Mr  
Prashant Mishra, Advocates.

For the Corporate Debtor : No representation

**ORDER**

***Per: Rajasekhar V.K., Member (Judicial)***

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by **Bee Athletic Private Limited (Operational Creditor)** [CIN: U18101HR2016PTC058144], a company within the meaning of section 2(20) of the Companies Act, 2013 and represented by its Director, Navneet Singh, on the basis of a Board Resolution dated 11.12.2019 seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **DSK Shivajians Football Club Private Limited** (Corporate Debtor).
2. The Corporate Debtor is a private company limited by shares and incorporated on 21.12.2012 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Pune. Its CIN is U92190PN2012NPL145795. Its registered office is at S.No. 326/2, Mumbai Bangalore Highway, Bawdhan, Pune 411021, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 16.10.2018 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹19,01,193.00 (Rupees nineteen lakh one thousand one hundred and ninety-three only) as principal as on 01.03.2017, which is stated to be the date of default, along with interest thereon

4. The case of the Operational Creditor is as follows: -

- (a) In May 2016, the Corporate Debtor through its Chief Executive Officer (CEO), Mr Neel Shah, approached the Operational Creditor with the intention of purchasing sports merchandise for its club, such as T-shirts, practice jersey, track suits, shorts, travel bags, stockings etc., personalised with the Corporate Debtor's logo. The Corporate Debtor also detailed the specifications and requirements for the aforesaid merchandise and asked the Corporate Debtor to supply the same (para 2 at page 4 of the Petition);
- (b) Subsequently, the Corporate Debtor, vide its email dated 31.05.2016, instructed the Operational Creditor for samples of the merchandise, which was also supplied. The Corporate Debtor duly approved the same (para 4 at page 5 of the Petition);
- (c) The Operational Creditor duly communicated the final price for the said merchandise to the Corporate Debtor vide email dated 13.06.2016, which was accepted by the Corporate Debtor on the same date. The reply email dated 13.06.2016 contained the total quantity of merchandise to be supplied by the Operational Creditor along with their types (para 4 at page 5 of the Petition);
- (d) The products so ordered by the Corporate Debtor were duly supplied by the Operational Creditor by courier on

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03.10.2016, 076 and 10.01.2017 (para 5 at page 5 of the Petition);

(e) The products were duly accepted by the Corporate Debtor without raising any dispute in respect of the quantity or quality of the products. No dispute was raised even subsequently till the date of filing of the present petition (para 6 at page 6 of the Petition);

(f) The following invoices were raised on the Corporate Debtor:

Sl No	Date	Invoice No.	Amount (₹)
1.	03.10.2016	BEE/16-17/090	14,11,955
2.	07.10.2016	BEE/16-17/091	14,31,748
3.	07.10.2016	BEE/16-17/092	2,10,978
4.	25.10.2016	BEE/16-17/096	2,70,644
5.	25.10.2016	BEE/16-17/097	2,46,047
6.	04.11.2016	BEE/16-17/099	56,823
7.	10.01.2017	BEE/16-17/127	5,56,361
8.	10.01.2017	BEE/16-17/128	32,865
Total			42,17,421

(para 7 at pages 6-7 of the Petition);

(g) The Corporate Debtor was always irregular in making payments. Instead of making invoice-wise payments, the Corporate Debtor would make "on account" payments.

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Therefore, there was a running account with the Corporate Debtor (para 8 at page 7 of the Petition);

(h) As against a total amount of ₹42,17,421/-, the Corporate Debtor has made a total payment of ₹23,16,228/-, leaving a balance of ₹19,01,193/- (para 9 at page 7 of the Petition);

(i) The Operational Creditor sent several reminders, the last of which was on 12.02.2018, to the Corporate Debtor requesting for payment. However, the Corporate Debtor has deliberately avoided making the payment (para 10 at page 7 of the Petition)

5. Invoices have been placed on record as **Exhibit 'C'** at pp.49-75 (inclusive of emails whereby the invoices were delivered to the Corporate Debtor). The invoices provide for interest in case of delayed payments, to be charged at the rate of 18% per annum. Bank statements are attached as **Exhibit 'G'** at pp.116-199. The total debt due and payable to the Operational Creditor is ₹19,01,193.00 (Rupees nineteen lakh one thousand one hundred and ninety-three only) as mentioned at page 108 of the Petition, plus interest thereon.
6. The Operational Creditor had served a Demand Notice in Form 3 dated 27.04.2018 to the Corporate Debtor (**Exhibit 'F'**, pp.110-115) in terms of section 8 of the IBC. The Corporate Debtor has not replied to the Demand Notice. Necessary affidavit of No

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Dispute in terms of section 9(3)(b) of the IBC has been annexed at page 14A.

7. The Corporate Debtor has neither entered appearance nor filed a reply to the Petition.
8. We have heard the arguments of the Learned Counsel for the Operational Creditor and perused the records.
9. There has been no communication in reply from the Corporate Debtor to the Demand Notice dated 27.04.2018, in spite of receiving the same by Speed Post. The Demand Notice was also sent by FedEx Courier on 02.05.2018. Affidavit of Service dated 09.12.2019 has been placed on record.
10. In spite of various opportunities given, there was no representation on behalf of the Corporate Debtor. Therefore, it appears that the Corporate Debtor is not interested in contesting the present petition.
11. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

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12. The Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter.
13. It is, accordingly, hereby ordered as follows: -
- (a) The petition bearing **CP (IB) No.3976/MB/C-IV/2018** filed by **Bee Athletic Private Limited**, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **DSK Shivajians Football Club Private Limited [CIN:U92190PN2012NPL145795]**, the Corporate Debtor, is **admitted**.
- (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
- (i) 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;
- (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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 Securitisation

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and Reconstruction of Financial Assets and  
Enforcement of Security Interest (Sarfaesi) Act, 2002;

- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium,-
- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
- (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read

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with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- (f) Since the Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter, this Adjudicating Authority hereby appoints **Mr Arun Kumar Gupta, Registration No. IBBI/IPA-001/IP-P01594/2019-2020/12496**, having address at E-505, Oberoi Splendor, Jogeshwari-Vikhroli Link Road, Jogeshwari (East), Mumbai 400060 [email: akgupta.rp@gmail.com, Mobile: 8076150089] as the IRP. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.
- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

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- (h) The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP of the Corporate Debtor.
- (i) The Operational Creditor shall deposit a sum of ₹3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (j) In terms of section 9(5)(i) of the IBC, the Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp (wherever feasible), immediately, and in any case, not later than two days from the date of this Order.
- (k) A copy of this Order be also sent to the Registrar of Companies, Maharashtra, Pune, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-  
**Ravikumar Duraisamy**  
**Member (Technical)**

10.06.2020

Sd/-  
**Rajasekhar V.K.**  
**Member (Judicial)**