

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**SPECIAL BENCH**  
**COURT - 1**

ITEM No.109  
CP(IB) 39 of 2020

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Hardik Fakirchand Shah Proprietor of Cotton Hub  
V/s  
Male Square Retails Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on ..27/04/2022**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Ajai Das Mehrotra, Hon'ble Member(T)

**PRESENT:**

For the Applicant : Mr. Atul Sharma, Advocate.  
For the Respondent :

**ORDER**

1. It is brought to our notice that the Hon'ble NCLAT, vide its order dated 19.01.2022 in Company Appeal (AT) Insolvency No.210 of 2021 filed by the Applicant-Operational Creditor, viz. Hardik Fakirchand Shah, Proprietor of Cotton Hub, has directed this Adjudicating Authority to admit the Corporate Debtor, viz., Male Square Retails Pvt. Ltd. into Corporate Insolvency Resolution Process ('CIRP'). Accordingly, we admit the application filed by the Applicant-Operational Creditor with following order:-

- 1) The Corporate Debtor, viz., Male Square Retails Pvt. Ltd. is admitted in Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.
- 2) The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.



- 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 of 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 Securitisation 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.
- 3) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
- 4) We hereby appoint **Mr. Rahul Nareshbhai Shah**, having Registration No. IBBI/IPA-001/IP-P-02170/2020-2021/13367 (as suggested by the Operational Creditor vide affidavit dated 27.04.2022) to act as an IRP under Section 13(1) (c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:
- 5) The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made



clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- 6) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
- 7) It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.1,00,000/- (Rupees One Lakh Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.
- 8) The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on website immediately after pronouncement of the order.



2. Accordingly, CP(IB) No.39/9/NCLT/AHM/2020 is allowed. However, Insolvency Resolution Professional / Resolution Professional to file progress report through IA so that it can be taken on record by this Adjudicating Authority.



**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**



**MADAN B GOSAVI  
MEMBER (JUDICIAL)**

Sudha