

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

C.P. No. 2788/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Katyayan Mercantile and Trading Pvt. Ltd.

402, Corporate Annex, Sonawala Lane,  
Goregaon (east), Mumbai – 400 063

.... Petitioner

v/s.

Raunak Mercantile & Trading Pvt. Ltd.

Shop No. 6, Kanakia Park, A wing, Opp.  
Avenue Hotel, Thakur Complex, Kandivali  
(east), Mumbai – 400 101

.... Corporate Debtor

Order delivered on: 14.10.2019

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

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

For the Petitioner : Ms. Bindu Bhatia, Advocate.

For the Corporate Debtor: None Present.

*Per: V. Nallasenapathy, Member (T)*

ORDER

1. This company Petition is filed by Katyayan Mercantile and Trading Pvt. Ltd. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Raunak Mercantile & Trading Pvt. Ltd. (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 16.04.2019 in making payment of Rs. 36,96,46,480/- including interest @5% 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 on 11.02.2019 the Corporate Debtor approached the Petitioner and placed orders for supply of books and issued purchase orders requesting the Petitioner to supply the books. The material was supplied in the period between 01.03.2019 to 31.03.2019. The Petitioner delivered the goods to the Corporate Debtor and raised 20 invoices amounting to Rs. 36,61,73,900/- on

the Corporate Debtor. The Corporate Debtor through a letter dated 04.04.2019 confirmed the outstanding balance of Rs. 51,20,33,900/- as on 31.03.2019.

3. On 10.04.2019, the Petitioner issued a letter to the Corporate Debtor demanding an outstanding due of Rs. 51,20,33,900/-. The Corporate Debtor has made a part-payment of Rs. 14,58,60,000/- till 30.04.2019 in respect of the said invoices and the balance amount of Rs. 36,70,88,279/- (39,61,73,900 + int. 9,14,379) including interest @5% p.a. is due and payable by the Corporate Debtor. The ledger account statement was filed which shows that there is balance outstanding amount payable by the Corporate Debtor.

4. Despite several requests made by the Petitioner, the Corporate Debtor failed to clear its dues. On 21.06.2019, the Petitioner issued Demand Notice demanding a sum of Rs. 36,96,46,480/- (36,61,73,900 + int. 34,72,580 up to 20.06.2019) including interest @5% p.a. under Section 8 of the Code.

5. The Corporate Debtor on 01.07.2019 replied to the said notice and admitted the liability stating that;

*"We have received your demand notice dated 21<sup>st</sup> June 2019 for payment of outstanding balance of Rs. 36,96,46,480/-. We are aware that the payment has to be made within a period of 10 days from the date of receipt of demand notice, however due to financial crises faced by our company we are currently unable to pay the said outstanding balance.*

*We hereby request you to give us at least 7 days time to make some arrangement for repayment of said dues. We bring to your notice that we are presently in the process of collection of outstanding due from our debtors, as and when the same is received we shall remit the outstanding amount payable to you. Hope you will understand our situation and grant us 7 days time. "*

6. The Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

7. The counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. Subsequently, the counsel for the Petitioner intimated the date of hearing to the Corporate Debtor and the matter was listed on 26.08.2019, then finally on 06.09.2019, but there was no representation from the Corporate Debtor's side on both occasions, in spite of receipt of notice.

8. The above facts clearly reveals that the Corporate debtor defaulted in making payment of the dues payable to the Petitioner. The outstanding amount that is in default is more than Rs. 1,00,000/-. The petition filed by the Petitioner is on proper Form 5, as prescribed under the Adjudicating Authority Rules and application is complete.

9. One Mr. Ankur Kumar, office at office no. 18, 10<sup>th</sup> floor, Pinnacle Corporate Park, G-Block, Bandra Kurla Complex, Bandra (east), Mumbai – 400 051; having email address- [Ankur.srivastava@ezylaws.com](mailto:Ankur.srivastava@ezylaws.com), having Registration No. IBBI/IPA-002/IP-N00113/2017-18/10283 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

10. 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 14.10.2019 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. Ankur Kumar, office at office no. 18, 10<sup>th</sup> floor, Pinnacle Corporate Park, G-Block, Bandra Kurla Complex,

Bandra (east), Mumbai - 400 051; having email address- [Ankur.srivastava@ezylaws.com](mailto:Ankur.srivastava@ezylaws.com), having Registration No. IBBI/IPA-002/IP-N00113/2017-18/10283 as Interim Resolution Professional to carry the functions as mentioned under the Code.

11. Accordingly, this Petition is admitted.
12. 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)