

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-90(ND)/2019

In the matter of

Sambhavi Enterprises Pvt. Ltd
Registered Office at:
117/N/24B, Rani Ganj, Kakadev
Kanpur-208025

.....Operational Creditor

V/s

R M H Hosiery Pvt. Ltd.
Registered Office at:
F-IX-630, Krishna Gali No.2
Subhash Road, Gandhi Nagar
New Delhi-110031

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on- 22.11.2019

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SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present: Mr. Ashish Middha, Advocate for the Petitioner
Respondent proceeded ex parte

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

The present petition has been filed for invoking the Corporate Insolvency Resolution Process of the Corporate Debtor for its inability to liquidate its outstanding dues.

2. As per averments, it is submitted that the Operational Creditor, a fabric manufacturer, had supplied Denim fabric to the Corporate Debtor an agreed terms and conditions. The grievance of the Operational Creditor is that an amount of Rs. 20,86,593/- is still outstanding for

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payment. Various Invoices along with the transportation documents of National Transport Corporation have been filed by the Operational Creditor as proof of delivering goods. It is submitted that despite repeated requests and reminders, the Corporate debtor has not taken any steps to reduce the liability and is liable to pay the aforesaid dues alongwith interest at the rate of 18% p.a.

3. The Operational Creditor issued a Demand notice dated 27.09.2018 under Section 8 of the Code which was not replied to by the Corporate Debtor. The Operational Creditor has now followed it up by filing the present petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 praying for initiating the Insolvency Resolution Process of the Corporate Debtor. The Operational Creditor has filed an affidavit u/s 9(3)(b) of the Code affirming that no notice of dispute was received by them pursuant to the demand notice being delivered on the Corporate Debtor. Compliance of Sec 9(3)(c) has also been made.

4. On being served with the notice of the present proceedings, the Corporate Debtor failed to put in appearance and was therefore proceeded ex parte.

Keeping in view that the averments made, and in the absence of existence of a prior dispute on record, or any resistance by the Corporate Debtor, the prayer of the petitioner merits consideration. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:



- “(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 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.*

Further,

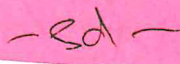
- (2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*
- (3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order*

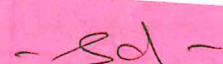


of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

“Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

5. The Operational Creditor has not proposed the name of any IRP. Accordingly, we appoint Mr. Pushpendra Surana Registration No. IBBI/IPA-001/IP-P00488/2017-18/10876 email--- psurana@suranaca.com Mobile No. 9899799041 duly empanelled with the IBBI as the IRP. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17,18,20 and 21 and file his report. The initial expenses shall be borne by the Operational Creditor to be reimbursed by the COC and recovered as costs of the CIR process.
6. The IRP is directed to file his report within the statutory period.
7. Copy of the order be sent to both the parties as well as to the IRP.


(V.K. Subburaj)
Member (T)


(Ina Malhotra)
Member (J)