

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

C.P. No.1421/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Onward Chemicals Private Limited  
11, Creative Industrial Center, N. M.  
Joshi Marg, Lower Parel (east),  
Mumbai – 400 011

.... Petitioner

v/s.

Supreme BituChem India Private  
Limited

Block No. 13-14, Seva Sadan, Central  
Avenue, Nagpur – 440 018

.... Corporate Debtor

Order delivered on: 04.11.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)  
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Mr. D. B. Pereira a/w Ms. Rinika Jain, Ms. Brenelle  
Cardoz, Advocates.

For the Corporate Debtor: None Present.

*Per: Suchitra Kanuparthi, Member (Judicial)*

ORDER



1. This company Petition is filed by Onward Chemicals Private Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Supreme BituChem India Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default on 23.11.2018 in making payment of Rs. 3,08,290/- along with interest @24% p.a. from 23.11.2018 onwards, 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 19.09.2018 and 20.10.2018, the Corporate Debtor placed two purchase orders viz. Nos. SBIPL/OC/2018-19/PO-190902 and SBIPL/OC/2018-19/PO-201005 with the Petitioner for supply of chemical products. Based on the said purchase orders, the Petitioner raised two invoices aggregating to a sum of Rs. 12,16,580/- and delivered the material to the Corporate Debtor which had been accepted by the Corporate Debtor. It is submitted that after adjusting the advance payment of Rs. 6,08,290/- and the part-payment of Rs. 3,00,000/- made on 30.03.2019, there is still a balance of Rs. 3,08,290/- is recoverable from the Corporate Debtor.

3. It is submitted that the Petitioner sent several e-mail reminders requesting the Corporate Debtor to pay the balance outstanding and the Corporate Debtor assured that the payments will be released in due course but no payment was made by the Corporate Debtor.

4. On 07.12.2018, the Corporate Debtor sent an e-mail to the Petitioner and the same is extracted below:



*"Sorry for the delay in payment. Due to certain unexpected reason the payment got delayed. We have already informed our accounts to release the payment and it will be done shortly. We are keeping track of this and inform to you as and when the payment is released.*

*Sorry for the inconvenience."*

5. On 14.02.2019, the Petitioner issued Demand Notice demanding a sum of Rs. 6,08,209/- under Section 8 of the Code. After receipt of the demand notice, on 30.03.2019, the Corporate Debtor paid a sum of Rs. 3,00,000/- leaving balance outstanding of Rs. 3,08,290/-. However, there was no reply from the Corporate Debtor for the Demand Notice and 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.

6. 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 but there was no representation from the Corporate Debtor's side.

7. On going through the Petition and on hearing of the submissions of the Counsel for the Petitioner, it is amply clear that the Corporate Debtor is liable to pay a sum of Rs. 3,08,290/- but defaulted in making the payment, hence, the Petition deserves admission.

8. One Ms. Pinkush Jaiswal, residing at 204, Kanchan Apptt., Dhantoli, Tikekar road, Nagpur, Maharashtra - 440 012; having Registration No. IBBI/IPA-002/IP-N00452/2017-18/11409 has given her consent in Form No. 2 to act as an Interim Resolution Professional.



9. 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 04.11.2019 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 Ms. Pinkush Jaiswal, residing at 204, Kanchan Appt., Dhantoli, Tikekar road, Nagpur, Maharashtra - 440 012; having Registration No. IBBI/IPA-002/IP-N00452/2017-18/11409 as Interim Resolution Professional to carry the functions as mentioned under the Code.

10. Accordingly, this Petition is admitted.

11. 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)



Certified True Copy  
Copy Issued "free of cost"  
On 06/11/2019  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench