



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CP (IB) No.3643/MB-IV/2019

Under Section 9 of the IBC, 2016

In the matter of

M/s R.B Industries

through its proprietor Manoj Agarwal

...Operational Creditor

v/s.

Influx Mart Limited

[CIN: U51909PN2004PLC01886]

...Corporate Debtor

Order Delivered on: 29.03.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner:

Ms. Risha Alva i/b PHM Law, Ld.
Counsel

For the Respondent:

None.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 IBC M/s R.B Industries, ("the Operational



Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Influx Mart Limited, (“the Corporate Debtor”).

1.1. The petition is filed on 11.10.2019 claiming an amount of Rs.4,72,498/- as due against the outstanding invoices. The date of default is not specified in Part IV of the petition.

2. The Operational Creditor is carrying on business supplying wrist watches for gents and ladies. The Corporate Debtor is in the business of retail sale of various goods including sale of wrist watches for gents and ladies.

2.1. Accordingly, the Operational Creditor supplied wrist watches for gents and ladies and raised invoices dated 22.05.2016 and 21.07.2016 aggregating to a sum of Rs.4,72,499/-.

2.2. The Corporate Debtor has accepted the goods provided by the Operational Creditor without any demur or protest and also issued Goods Receipt Notes duly acknowledging the receipt of goods delivered by the Operational Creditor. Despite providing the goods as per the requirement, the Corporate Debtor has failed to make payments towards the invoices raised from time to time. The Corporate Debtor vide its letter dated 28.12.2018 stated that they are facing acute liquidity problems due to non-receipt of payment from their customers.

3. The Corporate Debtor failed and neglected to release the outstanding payment, consequently, a statutory Demand notice dated 14.06.2019 in form 3 was issued u/s 8 of the IBC,2016 and the same was not replied by the Corporate Debtor.



4. The Corporate Debtor has filed his reply dated 15.12.2019 in which he has stated the Corporate Debtor incurred heavy losses unfortunately was not in position to clear the outstanding dues to the Operational Creditor.

Findings

5. We have heard the submissions made by the counsel representing the both sides and perused the records.
6. This bench notices that as per the above narrated facts and material placed on record that no dispute has been raised with regards to the existence of Debt due to the Operational Creditor. The Corporate Debtor vide its letter dated 28.12.2018 stated that they are facing acute liquidity problems due to non-receipt of payment from their customers. It is clear from the material on records that the Corporate Debtor has time and again acknowledged the debt and has unequivocally admitted his liability in its reply.
7. On perusal of the documents submitted by the Applicant, it is clear that Operational Debt amounting to more than Rs.1,00,000/- (Rupees One Lakh Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we find that it is a fit case for initiation of CIRP against the Corporate Debtor, and that the petition is filed within the limitation period. This Tribunal has jurisdiction to adjudicate the Company Petition filed by the Operational Creditor and that there is a Debt due & payable by the Corporate Debtor. Therefore, the Application filed by the Operational Creditor is liable to be admitted.
8. The Operational Creditor has proposed the Interim Resolution Professional (IRP) in the matter.



ORDER

9. The petition bearing CP (IB) No. 3643/MB-IV/2019 filed by M/s R.B Industries (“the Operational Creditor”), under section 9 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against Influx Mart Limited., (“the Corporate Debtor”) is **Admitted**.
- I. That this Bench as a result of this prohibits:
- 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 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 Securitization and Reconstruction of Operational 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 possession of the corporate debtor.
- II. That 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.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to



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- a. such transactions as may be notified by the Central Government in consultation with any Operational sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.
- IV. That 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 Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. The bench hereby appoints Mr. Udaykumar Bhaskar Bhat, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having registration number IBBI/IPA-001/IP/P-01425/2018-2019/12234 Email: udaybhat2805@gmail.com . He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- VII. 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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- VIII. The Operational Creditor shall deposit a sum of Rs.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).
- IX. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, 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/-

PRABHAT KUMAR
MEMBER (TECHNICAL)
29.03.2023

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)