

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

*** **

CP (IB) No. 220/9/AMR/2019

In the matter of Starrh Almond King Private Limited

*** **

Dated 20th May, 2020

The regular court proceedings have been suspended/closed as per Notice dated 22.03.2020 of NCLT, Principal Bench and subsequent follow up orders due to the COVID-19 pandemic. The order in this case is ready. Counsel for the parties are present in the Video Conference (VC). Order is pronounced through VC. The CP (IB) No. 220/9/AMR/2019 is admitted as per separate sheets.

Upload the same onto the NCLT website. A copy of the order may also be sent to the Registrar, NCLT as per Circular dated 14.04.2020 for necessary action at his end.



MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

*** **

CP (IB) No. 220/9/AMR/2019

**In the matter of a Petition under Section 9 of the Insolvency and
Bankruptcy Code, 2016
and**

In the matter of Starrh Almond King Private Limited

Between

Vikas Traders,
546/4, Katra Ishwar Bhawan,
Khari Boali, Fatehpuri,
Delhi – 110 006.
and

... **Petitioner**

Starrh Almond King Private Limited,
Door No. 7-50, Yalavarthivari Street,
Kuchipudi, Amarthaluru Mandhi,
Guntur District – 522 313,
Andhra Pradesh.

... **Respondent**

Date of Order: 20.05.2020

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Appearance:


For Petitioner: Ms. Rubaina S. Khatoun and Ms. Amrita Aryendra,
Advocates.

For Respondent: None appeared.

ORDER

This is an Application under section 9 of Insolvency & Bankruptcy Code (the Code) seeking Corporate Insolvency Resolution Process (CIRP) of the Respondent Company for default in payment of an operational debt.

2. The Petitioner, a Proprietorship Firm based in Delhi, is engaged in the business of import and export of dry fruits. The Respondent is a Private



Limited Company (CIN: U74999AP2010PTC069458) with its Registered Office in Guntur District, Andhra Pradesh involved in wholesale and retail business of dry fruits. The Respondent has been one of Petitioner's customers of the since February, 2017. The Petitioner had supplied dry fruits to the Respondent as ordered from time to time. In the initial phase of business between the parties, the Respondent made timely payments for the invoices raised by the Petitioner. But, after March, 2018, the Respondent delayed payments and gradually the outstanding amount began increasing. The last payment was made on 17.09.2018. Aggregate amount of five invoices raised for the period from 21.02.2018 to 17.04.2018 is Rs. 2,50,04,878/-. Out of which the Respondent has paid a total sum of Rs. 1,16,90,600/-, leaving Rs. 1,33,14,278/- including interest of 18% p.a. outstanding. On 19.10.2018 the Petitioner approached the Respondent for payment. The Respondent handed over six cheques to the Petitioner and requested to divide the outstanding amount of Rs.1,33,14,278/- into six equal instalments and present them on 15th of every month commencing November, 2018. However, the Respondent requested the Petitioner to defer the presentation of said cheques on one pretext or the other. The petitioner acceding to the request of the Respondent did not deposit the said cheques. The Respondent instead of informing fresh date for presentation of cheques, issued a notice dated 13.03.2019 to the Petitioner making false allegation that the Petitioner was exerting undue pressure on the Respondent for outstanding payments. It however stated that it was willing to pay the entire due amount within 4 months. The Petitioner on 07.05.2019 replied to the notice to the effect that in case the amount was not paid within 15 days it would initiate necessary action against the Respondent. Further, the Petitioner on 19.10.2018 issued a statement of confirmation of accounts to the Respondent and the same was properly acknowledged. The Petitioner issued the Demand

Notice dated 13.09.2019 in Form-3 under section 8 of the Code and sent it by Registered Post on 14.09.2019 and the same was delivered to the Respondent on 18.09.2019. A copy of the Demand Notice was also sent by email. They were not responded to.

3. The Respondent made the last payment on 17.09.2019 as per the Certificate issued by HDFC Bank of the Petitioner, where payments by the Respondent are normally credited. Since no further payments were made the Petitioner came up with the present Petition on 04.12.2019.
4. The Petitioner served notice to the Respondent through speed post on 26.12.2019 and once again on 25.01.2020 and the same was delivered to the Respondent on 30.12.2019 and 28.01.2020 respectively, as per the tracking reports. However none appeared for the Respondent. The Respondent was set *ex parte* on 20.02.2020.
5. Heard the counsel for the Petitioner. Materials available on record clearly indicate that the petitioner had supplied goods to the Respondent in due course of business. It had raised five invoices for the period from 21.02.2018 to 17.04.2018 for Rs. 2,50,04,878/-. Out of which the Respondent paid a total sum of Rs. 1,16,90,600/- leaving an outstanding amount of Rs. 1,33,14,278/-. The Respondent didn't reply to the Demand Notice. It neither made any payment nor appeared before this Authority. It was thus in default in payment of an operational debt.
6. From these materials it would appear that the Respondent owed an operational debt of Rs. 1,33,14,278/- to the Petitioner. Despite notice it defaulted in making the payment as promised. The Respondent has neither sent any notice of dispute nor shown any record of dispute as to the debt. The default interest amount of Rs. 38,50,994/- claimed cannot be acceded to the same being not a part of the invoices. The petitioner has not proposed the name of an Interim Resolution Professional (IRP). The Petition is otherwise complete. It thus needs to be admitted. Hence ordered.

ORDER

The Company Petition is admitted *ex parte*. The Corporate Insolvency Resolution Process of the Respondent shall commence from this date and shall be completed within 180 days hence.

- i. Shri Rajesh Chhaparia (Registration No. IBBI/IPA-001/IP-P00474/2017-2018/10817), having office at B-3, Magadha Empire, 8-6-42/7, 2nd Floor, Pedawaltair, Visakhapatnam, Andhra Pradesh - 530017; e-mail: rajesh_chhaparia@yahoo.co.in; Mobile: 9652184801 is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website. He is directed to file his written consent in Form No. 2 forthwith.
- ii. He is directed to take charge of the Respondent/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.
- iii. Moratorium in respect of the Respondent is hereby declared under Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Respondent (Corporate Debtor) shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.
- v. The Registry shall communicate the order to the Petitioner and the Respondent forthwith.
- vi. The Petitioner/OC and the Registry shall send the copy of this order to IRP for necessary compliance.


(MOHAMMED AJMAL)
MEMBER JUDICIAL