

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

**C.P. (IB) No. 4738/NCLT/MB/2018**

Under Section 9 of the I&B Code, 2016

In the matter of:

**Plastiblends India Limited**

...Operational Creditor / Applicant

V/s

**Neo Corp International Limited**

...Corporate Debtor / Respondent

**Order Dated: 19<sup>th</sup> September 2019**

**Coram:** Hon'ble Member (Judicial): Mr V. P. Singh  
Hon'ble Member (Technical): Mr Rajesh Sharma

**For the Applicant:** Adv. Aditya Mehta, Adv. Geetanjali Joshi and  
Adv. Shreyas Maheshwari

**For the Respondent:** Adv. Sunita Sonawane

*Per: Rajesh Sharma, Member (Technical)*

**ORDER**

1. This Application has already been admitted vide our Order dated 19.09.2019.
2. This is an Application being CP 4738(IB)/MB/2018 filed by **Plastiblends India Limited**, the Operational Creditor / Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Neo Corp International Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
3. The Application is filed claiming a total default of ₹7,23,945/- (Rupees Seven Lakhs Twenty Three Thousand Nine Hundred and Forty Five Only) including interest @17% p.a. The Application is filed by Mr. Himanshu Mhatre, Company Secretary of the Operational Creditor duly authorised to file this Application vide Board Resolution dated 29.10.2018.
4. The Applicant submits that it supplied "colour master batches and anti-static additives" vide eight Invoices from 31.12.2015 to 04.05.2016 as per the six Purchase Orders raised by the Corporate Debtor. The Purchase Orders and Invoices for the materials supplied are annexed to the Application.

5. The Applicant submits that despite having received and utilised the goods the Corporate Debtor failed to pay the due amount under the invoices. Therefore, the Applicant issued Demand Notice to the Corporate Debtor under Section 8 of the I&B Code demanding payment of the outstanding amount of ₹7,23,945/- (Rupees Seven Lakhs Twenty Three Thousand Nine Hundred and Forty Five Only) however, the Corporate Debtor failed to reply to the Demand Notice.
6. The Corporate Debtor in its Affidavit in Reply contended that it replied to the demand notice of Applicant through its letter dated 01.11.2018 and disputed the claim of Applicant. The Corporate Debtor further contended that the Applicant supplied inferior quality material of U. V. masterbatch to the Corporate Debtor and the Corporate Debtor supplied the processed material to its overseas customer, Europlast Limited, which got rejected as the material got tore, as a result of which the customer of Corporate Debtor lodged a claim of \$20,000/- i.e. INR ₹12,40,000/- against the Corporate Debtor vide email dated 07.06.2016. The Corporate Debtor also contended that it requested the Applicant through its email dated 10.06.2016 to depute a representative for inspection of the product supplied by the Applicant. The email dated 10.06.2016 was addressed by the Corporate Debtor to one Mr. Sanjeev Sachdeva, the Agency holder who negotiated on behalf of the Applicant. The copy of email dated 07.06.2016 and 10.06.2016 is annexed to the Application.
7. The Applicant in its Rejoinder has rebutted all the contentions of the Corporate Debtor. The Applicant has submitted that the Corporate Debtor only after receipt of statutory notice dated 03.10.2018 raised a belated and false dispute of quality defects and that the letter of Corporate Debtor dated 01.11.2018 was not in response to the statutory notice dated 03.10.2018 but was reply to legal notice dated 11.10.2018 issued by Applicant after the statutory notice. The Applicant submitted that under none of the said invoices / purchase orders / sale orders in issue in the present Application did the Applicant supply any material of U. V. master batch to the Corporate Debtor which is alleged by the Corporate Debtor to be of inferior quality. Therefore, the purported dispute raised by the Corporate Debtor is not for the goods supplied by the Applicant. The Applicant has also submitted that the customer of Corporate Debtor viz. Europlast Limited, which rejected the processed material supplied by the Corporate Debtor due to inferior quality is a subsidiary of Corporate Debtor. Further, the Applicant submitted that emails relied by Corporate Debtor in its Reply are fraudulent and fabricated as there is apparent mistake as to 'day' of the email,

email dated 08.06.2016 and 10.06.2016 are shown to be of same day i.e. Wednesday, and timing of both emails is also exactly same. Also, the email dated 10.06.2016 was addressed by the Corporate Debtor to Agent and representative of R. S. Marketing and was never actually sent to the Applicant.

8. We have heard the parties and perused the records.
9. On perusal of the documents submitted by the Parties, it is evident that the letter of the Corporate Debtor dated 11.10.2018 is not in reply to the statutory notice dated 03.10.2018 as it gives reference to Notice No. TRD/26/000750, which is not the Demand Notice. On perusal of the invoices and purchase orders annexed to the Application it is clear that the material supplied is, 'colour master batches and anti-static additives' and not 'U. V. master batch'. Also, on perusal of the emails it is noticed that the email dated 08.06.2016 and 10.06.2016 are shown to be of same day and time, which is not possible and therefore disqualifies their genuinity and further, admittedly, the email dated 10.06.2016 is not addressed to the Applicant. Thus, the Corporate Debtor has failed to reply to the Demand Notice and has not raised any disputes prior to the filing of Reply to the present Application. Therefore, the contentions raised by the Corporate Debtor are not tenable and hence rejected.
10. The Applicant, having supplied materials to the Corporate Debtor for which the Corporate Debtor has failed to make payments, is an Operational Creditor as per the provisions of the I&B Code, 2016. The Corporate Debtor has not established any pre-existing dispute with respect to the debt claimed in the Application.
11. The Application is complete and has been filed under proper form within limitation. Copy of the Demand Notice dated 03.11.2018, Affidavit in compliance of section 9(3)(b) dated 21.12.2018 stating that the Applicant has not received any notice of dispute from the Corporate Debtor and Bank Certificate in compliance of section 9(3)(c) have been filed with this Bench.
12. The Applicant has not proposed the name of an insolvency resolution professional to act as Interim Resolution Professional and to carry out the functions as mentioned under I&B Code, 2016.
13. The debt amount of more than Rupees One Lakh and default by the Corporate Debtor has been established and there is no pre-existing dispute. The Application is complete.

14. The Application under sub-section (2) of Section 9 of I&B Code, 2016 is complete. The existing operational debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the Application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

**ORDER**

This Application filed under Section 9 of I&B Code, 2016, presented by **Plastiblends India Limited**, Operational Creditor / Applicant against **Neo Corp International Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- 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 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 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 such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- 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. That this Bench at this moment appoints **Asha Manajit Ghoshal**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P-01601/2019 - 2020/12482]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
15. The Registry is at this moment directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**  
**RAJESH SHARMA**  
Member (Technical)

**Sd/-**  
**V.P. SINGH**  
Member (Judicial)

19<sup>th</sup> September 2019