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08/08/19

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B) No. 377/9/NCLT/AHM/2018

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.07.2019

Name of the Company: S.S. Shipping Agencies
V/s.
Kanvooi Foods Pvt. Ltd.

Section of the Companies Act: Section-9 of the Insolvency and Bankruptcy Code

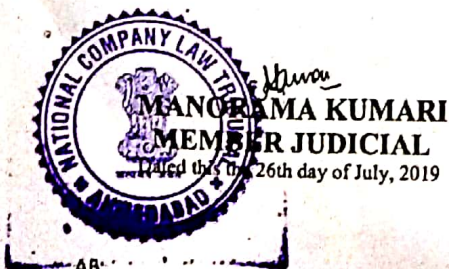
S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

- 1.
- 2.

ORDER

None is present for the parties.

The Order is pronounced in the open court, vide separate sheet.




HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B.) No. 377/9/NCLT/AHM/2018

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)
Hon'ble Ms. Manorama Kumari, Member (Judicial)**

In the matter of:

M/s. S. S. Shipping Agencies,
Having its registered office at:
A-11, Umiya Mahal, Plot No.11,
Sector 1, Oslo Road,
Gandhidham - 370201,
Gujarat.

.....Petitioner/Operational Creditor

Versus

M/s. Kanoovi Foods Pvt. Ltd.
Plot No.466/1, Sector 1,
Gandhinagar - 382007,
Gujarat.

.....Respondent/ Corporate Debtor

Appearance:

Mr. Sudhir Mehta, Advocate, for the Petitioner/Operational-Creditor.

None present for the Respondent/ Corporate-Debtor.

Order delivered on 26th July, 2019.



ORDER

[Per: Shri Harihar Prakash Chaturvedi, Member (Judicial)]

1. The present I.B. Petition is preferred by M/s. S. S. Shipping Agencies being an Operational-Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy Rules, 2016 (herein after referred to as a "Code") seeking for initiation of Corporate Insolvency Resolution Process ("CIRP" in Short) in respect of the Corporate-Debtor-Company namely, M/s. Kanoovi Foods Pvt. Ltd. It is stated that the Operational Creditor, M/s. S. S. Shipping Agencies is a proprietorship firm of Mr. Vinod Sethi as a Proprietor. The Operational Creditor Company is said to be involved in the business of transportation, logistics and cargo handling on a global basis. The Operational Creditor is having its registered address at: A-11, Umiya Mahal, Plot No.11, Sector-1, Oslo Road, Gandhidham - 370201, Gujarat, India.
2. It is stated that the Respondent/Corporate Debtor Company, namely M/s. Kanoovi Foods Pvt. Ltd. was incorporated on 31.01.2012 with the CIN: U15400GJ2012PTC068810 and is engaged in the business of manufacturing and export of products like Biscuits, Confectionery, Rice and other Fast Moving Consumer Goods ("FMCG") products.



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3. It is informed that the Corporate-Debtor-Company is having nominal share capital of Rs.3,00,00,000/- (Rupees Three Crores) and the paid-up share capital of the company is Rs.2,88,00,000/- (Rupees Two Crores Eighty-Eight Lakhs). The registered office of the Corporate Debtor Company is situated at: Plot No. 466/1, Sector-1, Gandhinagar, Gujarat, India.

4. It is submitted that the Corporate-Debtor-Company, which is engaged in the business of manufacturing, marketing and export of FMCG products, to which, the Operational-Creditor has handled the transportations from time to time. Thereafter the Petitioner claimed its transportation charges by raising various invoices from April 06, 2016 to September 22, 2016 for an amount of Rs.17,97,340/- (Rupees Seventeen Lakhs Ninety-Seven Thousand Three Hundred and Forty) which was not paid. The Petitioner/Operational-Creditor contends that the Corporate-Debtor is liable to pay to the Petitioner a total sum of Rs.23,30,708/- (Rupees Twenty-Three Lakhs Thirty Thousand Seven Hundred Eight), including the amount of Rs.5,33,368/- (Rupees Five Lakhs Thirty-Three Thousand Three Hundred Sixty-Eight) along with interest @18% per annum as per the terms of the invoices from the due date of invoice till the date of Demand Notice dated April 19, 2018



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for the outstanding invoices from April 06, 2016 till September 22, 2016. That apart, the interest amount is also due and to be paid from the date of Demand Notice till the date of actual realization.

5. It is submitted that the Corporate-Debtor has admitted its liability and promised to clear its outstanding dues at the earliest but after repeated requests for several times, the Corporate-Debtor issued a cheque bearing no.001312 dated 10th March, 2017 amounting to Rs.10,00,000/- (Rupees Ten Lakhs Only) for the outstanding invoices from April 06,2016 till September 22, 2016 but the said cheques were returned by the bank as dishonoured.

6. It is stated that the Operational-Creditor deposited the said cheque, bearing No.001312 on 8th May, 2017 of HDFC Bank dated 28th April, 2018 for an amount of Rs.10,00,000/- towards the part-payment with the Axis Bank. However, the said cheque was returned unpaid vide return memo dated 09th May, 2017 by the Axis Bank with such remark "Account Blocked". The Operational-Creditor annexed the said details of unpaid cheque as an annexure to the present I.B. Petition.

7. Thereafter, the Operational-Creditor has issued a Legal Notice on 09.05.2019 to the Corporate-Debtor under



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Section 138(b) of the Negotiable Instrument Act, 1881 alleging dishonour of cheque bearing No.001312, amounting to Rs.10,00,000/- along with claiming the outstanding dues of Rs.17,97,340/- for the outstanding invoices from April 06, 2016 till September 22, 2016. A copy of the said legal notice is annexed with the present I.B. Petition.

8. Thereafter, the Operational-Creditor filed a complaint u/s. 138 of the Negotiable Instrument Act, 1881 and 420 of the Indian Penal Code before the Hon. Court of Additional Chief Judicial Magistrate at Gandhidham with case no.CRI CSE No.1949 of 2017, wherein, process has been issued to the Corporate-Debtor and the proceedings are still pending with the Hon. Court of Additional Chief Judicial Magistrate at Gandhidham.
9. Thereafter, the Petitioner issued a statutory 'Demand Notice' on 21.04.2018 under Section 8 of the I.B. Code to the Corporate-Debtor at its registered office. The said demand notice was claimed to be received by the Corporate-Debtor on 27th April, 2018. In proof of the same, the Petitioner has annexed a copy of the Track report from the Speed Post India website.



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10. However, no reply given/dispute raised by the Corporate-Debtor even after the receipt of such demand notice.

11. The said demand notice was issued on 27.04.2018 in Form-3 to the Corporate-Debtor-Company. However, the Corporate-Debtor has failed to reply or raise any dispute nor it appeared before this Adjudicating Authority nor filed its objection to the present I.B. Petition.

12. Thus, it is evident that the Corporate-Debtor did not deny its loan liability for total amount of **Rs.23,30,708/-** nor even denied its liability towards payment of transportation charges (of principle amount) to the tune of **Rs.17,97,340/-** which is more than one lakh rupees. Thus, the debt-due is admitted and the default is duly established. Further, the present I.B. Petition is filed by an authorised signatory of the Operational-Creditor. Hence, it is found to be filed within limitation and such filing seems to be in order.

13. By considering the above given facts of the present case, the present IB petition filed under Section 9 of the code is found complete for the purpose of initiation of Corporate-



Attorney

Interim- Resolution-Process in respect of Corporate-Debtor-Company. Hence, deserve for admission.

14. Therefore, the present IB petition is admitted with following observations/ Directions:

15. As per the provisions of Section 13 and 14 of the I.B. Code on the date of commencement of insolvency, this adjudicating authority declares moratorium for prohibiting all of the following, namely: -

- (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 (54 of 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.*
- II. *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- III. *The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central*



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Government in consultation with any financial sector regulator.

IV. The order of moratorium shall have effect from the date of such order till the compilation of the corporate insolvency resolution process.

16. The Petitioner/Corporate-Debtor has suggested the name of Mr. Kedar Ramratan Laddha, Insolvency Professional to be appointed, if this petition is allowed.

17. Hence, this Adjudicating Authority hereby appoints **Mr. Kedar Ramratan Laddha**, having Insolvency Professional Registration No. **IBBI/IPA-001/IP-P00586/2017-2018/11115**, Email ID: **kladdha@kpsjca.com**, Resi. Ph. (079) 66653333, Mobile No. 09737533000, Address: 6/5, Sahyog Appat., B/h. Keshavnagar, Nr. Subhshbridge, RTO Circle, Keshavnagar, Ahmedabad - 380027, Gujarat, India as an Interim-Resolution-Professional. The Interim-Resolution-Professional is further directed to make public announcement of moratorium in respect of Corporate-Debtor-Company soon after receipt of an authenticated copy of this order and to act further as per the order/direction issued by this Adjudicating-Authority and to follow the provisions Section 13 and 14 and relevant provisions of the Insolvency and Bankruptcy Code.



18. An authentic copy of this order to be communicated by the Petitioner as well as by this Registry to the Corporate-Debtor-Company, as well as to the Interim-Resolution-Professional and the Registrar of Companies at the earliest.
19. The present IB-Petition is disposed of accordingly.

Manor
Manorama Kumari,
Adjudicating Authority
Member (Judicial)

[Signature]
Harihar Prakash Chaturvedi,
Adjudicating Authority
Member (Judicial)

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