

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**



ITEM No. 302  
**CP(IB) 99 of 2023**

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Shree N. H. Enterprises

.....**Applicant**

V/s

Raghuvanshi Industries Private Limited

.....**Respondent**

**Order delivered on . 19/09/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in open Court vide separate sheet.

-Sd-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**C.P. (IB) No. 99 of 2023**

*[An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016].*

**In the matter of:**

Shree N. H. Enterprises,  
Partnership firm through its Partner  
Mr. Nirav Mahendrabhai Mashru  
Registered office is at: 309, 3<sup>rd</sup> Floor,  
Nakshtra – 7 Building, Chandan Park  
Raiya Road, Rajkot – 360001

**.....Applicant/Operational Creditor**

**VERSUS**

Raghuvanshi Industries Private Limited  
Registered office is at:  
R.S. No. 319, Naranka  
Rajkot Jamnagar Highway  
Vill. Targhadi, Tal. Padadhari  
Dist. Rajkot – 363660

**.....Respondent/Corporate Debtor**

**Order pronounced on: 19.09.2023**

**Coram: MR. SHAMMI KHAN, HON'BLE MEMBER(J)  
MR. SAMEER KAKAR, HON'BLE MEMBER(T)**


**Appearance:**

For the Applicant/Operational Creditor : Mr. Vishwas Shah,  
Advocate

For the Respondent/Corporate Debtor : Mr. D.H. Rathore, Advocate


**ORDER**

1. The present Petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s. N. H. Enterprises (for brevity 'Applicant/Operational Creditor'), with a prayer to initiate the Corporate Insolvency Resolution Process against M/s. Raghuvanshi Industries Private Limited (for brevity 'Respondent/Corporate Debtor').
2. This application is filed through its Partner by one Mr. Nirav Mahendrabhai Mashru who has been authorised by an authority letter which is annexed at Annexure I.
3. On perusal of the Form 5 reveals that the Corporate Debtor is one Mr. Raghuvanshi Industries Private Limited having CIN No. U17111GJ2014PTC078412. The Corporate Debtor was incorporated on 24.01.2014 and having registered office at R.S. No. 319, Naranka Rajkot Jamnagar Highway Vill. Taraghadi, Tal. Padadhari Dist. Rajkot – 363660.
4. Part 3 of the application reveals that the applicant has named Mr. Vinod Tarachand Agrawal having registered no. IBBI/IPA-001/IP-P00641/2017-18/11090. Part 4 of the application reveals that total dues as claimed by the applicant is



1,73,63,067/- consisting of Rs. 1,42,91,391/- being principle amount of Rs.30,71,676/- as interest upto 31.12.2022 for the supplies made during the period of 03.06.2021 to 23.06.2021 as per the oral order of the Corporate Debtor.

5. Operational Creditor had supplied Cotton Cake to the Corporate Debtor against the said supplies, Corporate Debtor failed to make the payment of 47 invoices raised during the period of 03.06.2021 to 23.06.2021 aggregating to Rs. 1,42,91,391/- despite regular follow up by the Operational Creditor. It is stated that the debt felt due after 15 days from the date of receipt of the invoices as per the term of invoices.
6. Copies of unpaid tax invoices along with transport receipt and gate pass (duly acknowledged are attached as Annexure A) interest charged is at the rate of 15% per annum. It is the contention of the applicant that the default occurred after 15 days from the date of respective invoices. The computation sheet is annexed at Annexure B.
7. Perusal of computation sheet reveals that the date of first default is 18.06.2021 and date of last default is 08.07.2021 the Operational Creditor relies on the following documents:
  - a. A copy of the Ledger in the books of the Operational Creditor till 31.03.2022 “Annexure – C”.
  - b. A copy of the Ledger in the books of the Corporate Debtor till 31.03.2022 “Annexure – D”.



c. Demand Notice – Form 3 and Form 4 dated 08.02.2023 sent by Speed post at the registered address of the Corporate Debtor along with postal receipt and track report “ Annexure – E”.

d. Affidavit pursuant to Section 9(3)(b) of the Insolvency and Bankruptcy Code, 2016 “Annexure J”.

e. invoices

8. Copy of the demand notice with postal receipt and track record is attached on page no. 172 to 184 of the application, the applicant has also filed NeSL report being ROD under Diary No. D2406 dated 03.07.2023.

9. Reply was filed by the Corporate Debtor under Diary No. 2407 dated 03.07.2023. The reply was affirmed by one Mr. Sanjay Chandrakant Thakkar, director of the Corporate Debtor duly authorised under Board Resolution dated 28.04.2023 under paragraph nos. 3 and 5 of the said reply the Corporate Debtor admits the total unpaid dues to the extent of Rs.1,42,91,391/-. It is further stated that the respondent has requested the applicant for more time so that due can be paid out of working of the company as well recovery from the Debtors of the respondent company which is going through severe financial constraints and liquidity crunch.

10. Under paragraph 6 of the reply the Corporate Debtor concedes that the Corporate Debtor “*is not in a financial position to make the payment of the outstanding dues but shall ready to pay once the financial position of the company is improved and dues of the debtor are recovered*”.



11. We have heard the Counsels from both the sides and has perused the documents. It is not in dispute that goods were supplied by the Operational Creditor herein to the Corporate Debtor. In his reply the Corporate Debtor has unequivocally admitted the debt in default and has sought time for repayment of the debt stating the financial crunch which the Corporate Debtor is undergoing.
12. In our view the Applicant/Operational Creditor has proved that there is a debt which is being defaulted by the Corporate Debtor. The said debt is not falling within the purview of Section 10 A of Insolvency and Bankruptcy Code, 2016. The outstanding operational debt is of more than rupees one crore which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Accordingly, the Application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Respondent/Corporate Debtor deserves to be admitted.
13. Applicant/Operational Creditor has already named IRP Mr. Vinod Tarachand Agrawal the consent of the IRP is placed at page no. 186. It is seen that the AFA of the IRP is valid till 08.11.2023.
14. Accordingly, in light of the above facts and circumstances, it is, hereby ordered as under:-


- (i) The Respondent/Corporate Debtor **Raghuvanshi Industries Private Limited is admitted** in

Corporate Insolvency Resolution Process under section 9 of the Code.




- (ii) As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
- 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 Securitisation 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 the possession of the Corporate Debtor.*
  - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation*

*with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor.*

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- (i) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
  - (ii) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
  - (iii) As proposed by the Operational Creditor, we hereby appoint **Mr. Vinod Tarachand Agrawal** having Registration No.IBBI/IPA-001/IP-P00641/2017-18/11090 under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
  - (iv) The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution

Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.

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- (v) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or cooperate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
  - (vi) The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
  - (vii) The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.



- (viii) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (ix) We direct the Operational Creditor to pay IRP a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** as fees and expenses arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.
- (x) The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- (xi) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

9. Accordingly, this Application **CP(IB)/99/AHM/2023** is allowed

and stands admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.



-Sd-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

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