

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

**CP (IB) 1797/MB-IV/2019**

Under section 9 of the Insolvency &  
Bankruptcy Code, 2016

*In the matter of*

**Krupa Polymers (India) Private  
Limited**

...Operational Creditor

Versus

**Nakshatra Distilleries & Breweries  
Limited**

[CIN: U15520PN2009PLC133321]

... Corporate Debtor

**Order Delivered on 18.10.2019**

***Coram:***

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)  
Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Operational Creditor : Mr Amit A Tungare, Advocate  
For the Corporate Debtor : None

**ORDER**

***Per: Rajasekhar V.K., Member (Judicial)***

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) by Krupa Polymers (India) Private Limited ("the Operational Creditor"), seeking to initiate

Corporate Insolvency Resolution Process (CIRP) against Nakshatra Distilleries & Breweries Limited ("the Corporate Debtor").

2. The Corporate Debtor is a public company limited by shares and incorporated on 06.01.2009 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Pune. Its Corporate Identity Number (CIN) is U15520PN2009PLC133321. Its registered office is At/Post-Angar, Taluka: Mohol, District, Solapur, Maharashtra 413214. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 22.04.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs.11,00,029.75 (Rupees eleven lakh twenty-nine and paise seventy-five only) as principal and Rs.5,46,339.00 (Rupees five lakh forty-six thousand three hundred and thirty-nine only) as interest as on 04.02.2018, which is the date of default.
4. The case of the Operational Creditor is as follows: -
  - (a) The Corporate Debtor placed an order for supply of pet bottles with the Operational Creditor on regular basis. The Operational Creditor supplied the aforesaid goods to the Corporate Debtor and raised the following invoices (Part IV at page 5 of the Petition):-

- (i) Invoice No. K0044 dated 25.04.2016 for Rs.4,85,248/-  
(page 11 of the Petition);
  - (ii) Invoice No. K0087 dated 12.05.2016 for Rs.1,62,547/-  
(page 13 of the Petition);
  - (iii) Invoice No. K0096 dated 16.05.2016 for Rs.2,96,899/-  
(para at page 15 of the Petition);
  - (iv) Invoice No. K0215 dated 05.07.2016 for Rs.5,15,956/-  
(page 17 of the Petition).
5. The Invoices have been placed on record at pp.11-18. The invoices provide for interest in case of delayed payments, to be charged at the rate of 24% as per Invoices No. K0044 (p.11), K0087 (p.13), K0096 (p.15) and 15% as per Invoice No. K0215 (p.17) per annum. The total debt due and payable to the Operational Creditor is Rs.16,46,368.75 (Rupees sixteen lakh forty-six thousand three hundred and sixty-eight and paise seventy-five only), as mentioned at pp.25-27 of the Petition.
6. The Operational Creditor had served a Demand Notice in Form 3 dated 12.02.2019 to the Corporate Debtor (pp.84-90 of the Petition) in terms of section 8 of the IBC. The Corporate Debtor has not replied to the Demand Notice.
7. The Corporate Debtor has unequivocally acknowledged the debt as per the Consent Terms arrived at in the earlier round of proceedings contained in CP(IB) No.1207/2017 (NCLT Mumbai

Bench) *vide* its letter dated NIL, as seen from the Petition at p.25-28.

8. We have heard the arguments of the Learned Counsel for the Operational Creditor and perused the records. There is no reply either to the Demand Notice or to the Petition. There is also no representation from the side of the Corporate Debtor.
9. The Operational Creditor had earlier instituted proceedings under sec 9 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor before this Adjudicating Authority, which was numbered as 1207 of 2017, wherein the Corporate Debtor admitted the debt of Rs.14,00,029/- (Rupees fourteen lakh and twenty-nine only) pursuant to which Consent Terms were filed.
10. The Corporate Debtor had agreed to pay the Operational Creditor in five installments, however the Operational Creditor states that out of the five instalments the Corporate Debtor has only paid the first instalment amounting to Rs.3,00,000/- and has defaulted to pay the balance amount of Rs.11,00,029/-.
11. It is noted that the Corporate Debtor has admitted the liability by the Consent Terms arrived at in the earlier round of proceedings contained in CP(IB) No.1207/2017 (NCLT Mumbai Bench) at p.25-28. The Corporate Debtor has violated the Consent Terms entered into in CP No. 1207/2017.

12. In view of the abovementioned circumstances, the Operational Creditor instituted fresh proceedings to recover the balance amount.
13. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Tribunal admits this Petition and orders initiation of CIRP against the Corporate Debtor.
14. The Operational Creditor has proposed the name of **Mr. Uday Shreeram Sakrikar**, Registration No. IBBI/IPA-001/IP-P01230/2018-19/11927, having address at 303, Rahul Vihar-A, Lane-8, Dahanukar Colony, Kothrud, Pune, Maharashtra 411038 [email: [ipudaysakrikar@gmail.com](mailto:ipudaysakrikar@gmail.com), Mobile:7028023182], as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with a copy of his Certificate of Registration.
15. It is, accordingly, hereby ordered as follows: -
  - (a) The petition bearing **CP(IB) 1797/MB-IV/2019** filed by **Krupa Polymers (India) Private Limited**, 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 **Nakshatra Distilleries & Breweries Limited [CIN: U15520PN2009PLC133321]**, the Corporate Debtor, is **admitted**.

- (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
- (i) 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;
  - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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 (Sarfaesi) Act, 2002;
  - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

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

CP (IB) 1797/MB/C-IV/2019

---

- (c) Notwithstanding the above, during the period of moratorium,-
- (i) 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;
  - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) **Mr Uday Shreeram Sakrikar**, Registration No.IBBI/IPA-001/IP-P01230/2018-19/11927, having address at Lane-8, Dahanukar Colony, Kothrud, Pune, Maharashtra [email: [ipudaysakrikar@gmail.com](mailto:ipudaysakrikar@gmail.com), Mobile:7028023182], is hereby appointed as Interim Resolution Professional (IRP) of the

Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- (g) 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.
- (h) The Operational Creditor shall deposit a sum of Rs.1,00,000/- (Rupees one 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).
- (i) 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.
- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Pune, for updating the Master Data of the

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

CP (IB) 1797/MB/C-IV/2019

---

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/-  
**RAVIKUMAR DURAISAMY**  
Member (Technical)

SD/-  
**RAJASEKHAR V.K.**  
Member (Judicial)