IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT-V, MUMBAI BENCH

C.P. No. 220/IBC/MB/2021

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)
In the matter of

Nova Cosmetics Private Limited
Having registered office at:
B-80/1 Additional MIDC, Anand Nagar, Ambernath (East), Thane Maharashtra- 421506

……Operational Creditor

Vs

Phantom Resources Private Limited
(CIN: U74110MH2015PTC263467)
Registered office at:
701, Aryston Centre, opp. JW Marriot Hotel, Juhu Tara Road, Juhu, Santacruz (West), Mumbai 400049

The Union of India
Through the Secretary,
'A' Wing, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi 110 001

…….Corporate Debtors

Order delivered on: 15.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioner: **Ms.** Farzeen Khambatta, Advocate.
For the Corporate Debtor: None Present.

1. The above Company Petition is filed by Nova Cosmetics Private Limited hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against Phantom Resources Private Limited called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Operational Debt of Rs. 47,22,294.82/-.
2. The Petitioner has been manufacturing perfumes for the Corporate Debtor and with reference to the debt due and amount claimed. The Petitioner raised the following invoices on the Corporate Debtor;

    i. Invoice No. A/95/2018-19 dated 12th December 2018
    ii. Invoice No. A/105/2018-19 dated 03rd January 2019
    iii. Invoice No. A/106/2018-19 dated 03rd January 2019
    iv. Invoice No. A/126/2018-19 dated 04th February 2019
    v. Invoice No.. A/127/2018-19 dated 04th February 2019
    vi. Invoice No. A/128/2018-19 dated 04th February 2019
    vii. Invoice No. A/157/2018-19 dated 28th March 2019

3. On 5th December 2018, the Corporate Debtor made a payment of Rs. 15,00,000/-. Subsequently, on 28th December, 2018, the Corporate Debtor further made a payment of Rs. 5,00,000/-. The total payment of Rs. 20,00,000/- received in the month of December 2018, Rs. 13,54,278.90/- were set off against the dues pertaining to the invoices.
4. The Corporate Debtor vide its letter dated 1st April, 2019, acknowledges and admits the debt of Rs. 47,22,294.82/-. Since

no payment is forthcoming from the Corporate Debtor. The Petitioner has made a demand for payment via email on 17.07.2019 and 06.08.2019. Thereafter, a Demand Notice dated 29.01.2020 has been sent to the Corporate Debtor by the Petitioner and which has been duly served upon the Corporate Debtor on 31.01.2020.

5. The Advocate for the Petitioner already filed Service Affidavit on 29.06.2021 along with the copy of the courier receipt and Track Report in evidence of Service of notice on the Corporate Debtor. As per the Track Report, the Corporate Debtor refused to receive the notice. Hence, service upon the Corporate Debtor is held sufficient and the Corporate Debtor is set ex-parte.

ORDER

a. The above Company Petition No. 220/IBC/MB/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Phantom Resources Private Limited.

b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints Mr. Ajay Ganesh Marathe (ajaym7@rediffmail.com) (Mobile No. 9820488180) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01262/2018-2019/12170 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Operational Creditor shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.

d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; 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. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

g. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
k. Accordingly, Company Petition No. 220/IBC/MB/2021 is **admitted**.
l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-
ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

SD/-
H.V. SUBBA RAO
MEMBER (JUDICIAL)