

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

C.P. No. 3397/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Airen International Limited

Airen Corporate, 401, Fourth Floor, 15/2,

Old Palasia, Near Ambedkar Bridge,

Indore, Madhya Pradesh – 452 001

.... Petitioner

v/s.

Durgashakti Foods Private Limited

Jalalpura, Rishi Sankul, Chikali Bypass,

Sureka Nagar, Khamgaon, Buldana,

Maharashtra – 444 303

.... Corporate Debtor

Order delivered on: 16.12.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Jatin Sehgal, Advocate.

For the Corporate Debtor : None present.

*Per: V. Nallasenapathy, Member (T)*

ORDER

1. This company Petition is filed by Airen International Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Durgashakti Foods Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default on 19.01.2019 in making payment to the extent of Rs. 6,27,726/-, by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter

called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that the Petitioner is engaged in the business of manufacturing, distribution and selling of HDPE/PP Woven Sacks & Bags. The Petitioner had supplied 9271.6 kgs of PP laminated sacks to the Corporate Debtor and raised an invoice dated 20.12.2018 amounting to Rs. 11,27,726/-. On 05.03.2019 the Corporate Debtor has made part-payment amounting to Rs. 5,00,000/- and still there is a balance Rs. 6,27,726/- payable by the Corporate Debtor. Thereafter, the Petitioner made several reminders to the Corporate Debtor demanding the outstanding payments, but the Corporate Debtor failed to clear the dues.

3. The Petitioner, on 05.07.2019, issued Demand Notice demanding a sum of Rs. 6,27,726/- under Section 8 of the Code. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

4. The counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. Subsequently, on 04.11.2019 the counsel for the Petitioner intimated the next date of hearing to the Corporate Debtor, for which the Corporate Debtor replied on the same day stating - *"Thanks. Proper response will be provide shortly."* However, the Corporate Debtor neither filed reply nor appeared before this Bench.

5. The statement of accounts produced by the Petitioner shows that there is a balance due of Rs. 6,27,726/- as claimed by the Petitioner after taking into the account the part-payment of Rs. 5,00,000/- out of the invoice value of Rs. 11,27,726/-.

6. On hearing the counsel for the Petitioner and on perusing the documents filed by the Petitioner, this Bench is of the view that there is debt of Rs. 6,27,726/- owed by the Corporate Debtor to the Petitioner and the Corporate Debtor committed default in making the payment.

7. One Mr. Navin Khandelwal, office at 206, Navneet Plaza, 5/2, Old Palasia, Indore (MP – 452 018); having Registration No. IBBI/IPA-001/IP-P00703/2017-18/11301 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

8. This Bench having been satisfied with the petition filed by the Petitioner which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this petition declaring Moratorium with the directions as mentioned below:

(a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; 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.

(b) 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.

(c) 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.

(d) that the order of moratorium shall have effect from 16.12.2019 till the completion of the CIRP 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.

- (e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.
- (f) that this Bench hereby appoints Mr. Navin Khandelwal, office at 206, Navneet Plaza, 5/2, Old Palasia, Indore (MP - 452 018); having Registration No. IBBI/IPA-001/IP-P00703/2017-18/11301 as Interim Resolution Professional to carry the functions as mentioned under the Code.
9. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-  
V. Nallasenapathy  
Member (Technical)

SD/-  
Suchitra Kanuparthi  
Member (Judicial)