

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT NO. II)**

**CP (IB)240/AHM/2021**

(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:**

**HiteshKumar Sureshbhai Gajjar,  
Proprietor of Richrelics Export,**

**...Applicant / Operational Creditor**

**Versus**

**Map Refoils India Limited**

**...Respondent / Corporate Debtor**

**Order Pronounced On: 04/04/2022**

**Coram:**

**DR. DEEPTI MUKESH,  
HON'BLE MEMBER (JUDICIAL)**

**AJAI DAS MEHROTRA,  
HON'BLE MEMBER (TECHNICAL)**

## MEMO OF PARTIES

**HiteshKumar Sureshbhai Gajjar,**

**Proprietor of Richrelics Export,**

Add: 58/685, 528 MIGH, Nr. Telephone Exchange,

Naranpura, Ahmedabad, Gujarat - 380013

**...Applicant/ Operational Creditor**

**Versus**

**Map Refoils India Limited**

10<sup>th</sup> Floor, D Block, Ganesh Meridian,

Opp. Gujarat High Court, S.G. Highway,

Ahmedabad- 380061

**...Respondent / Corporate Debtor**

**Present:**

For the Applicant: Mr. Arjun Padhiyar, Adv.

Mr. Nachiket Mehta, Adv.

For the Respondent: Mr. Aman Shankar, Adv.

## ORDER

1. The instant Application is filed by HiteshKumar Sureshbhai Gajjar, Proprietor of Richrelics Export (for brevity '**the Applicant**') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity '**Code**') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 claiming to be an Operational Creditor for initiation of Corporate Insolvency Resolution Process ('**CIRP**') against the Map Refoils India Limited (for brevity '**Corporate Debtor**'). It is noted that in the title of the Application inadvertently the name of the Applicant is mentioned as Hiteshkumar Sureshkumar Gajjar instead of Hiteshkumar Sureshbhai Gajjar and the same has been considered.

2. The Applicant is a proprietor of Richrelics Export, having its principal place of business at 58/685, 528 MIGH, Nr. Telephone Exchange, Naranpura, Ahmedabad, Gujarat – 380013 and its GST Registration Number is 24APDPG6464J1ZU. As per GST Registration Certificate, the trade name of the Applicant is Eichrelics Export. The Applicant is engaged in the business of oil.

3. The Corporate Debtor is a company limited by shares, incorporated under the provisions of the Companies Act, 2013 on 09.01.2015, duly registered with Registrar of Companies, Ahmedabad with CIN: U15122GJ2015PLC081840 and its registered office is located at 10<sup>th</sup> Floor, D Block, Ganesh Meridian, Opp. Gujarat High Court, S.G. Highway, Ahmedabad- 380061. The authorized share capital of the Corporate Debtor is Rs. 1,25,00,000/- and the Issued, Subscribed and Paid-up share capital of the Corporate Debtor is Rs. 1,23,39,840/-. The Corporate Debtor is primarily operating in the retail sector offering sunflower, cottonseed and soyabean oil to its customer.

4. It is the case of the Applicant that on the request of the Corporate Debtor, the Applicant had supplied refined palmolein oil to the Corporate Debtor and raised invoices on 12.04.2021 of total amount of Rs. 1,96,85,265/-. Copy of purchase order issued by the Corporate Debtor and invoices raised along with Delivery notes are annexed. The Corporate Debtor had acknowledged and confirmed the outstanding amount of Rs. 1,96,85,265/- in letter dated 31.08.2021 sent by the Applicant to the Corporate Debtor with subject confirmation of accounts for period from 01.04.2020 to 31.08.2021. The Applicant had also sent a reminder letter dated 25.08.2021 to the Corporate Debtor for payment of due amount. The Corporate Debtor replied vide letter dated 27.08.2021 requested for some time on account of COVID-19 to make the outstanding payment.

5. Since the Corporate Debtor had failed to pay balance amount, the Applicant issued demand notice dated 04.10.2021 under Section 8 of Code for payment of Rs. 1,96,85,265/-, which was duly served on the Corporate Debtor. The track report is filed, which mentions 'Item Delivery Confirmed'. The Applicant states that the Corporate Debtor had neither raised any dispute to said notice nor made any payment towards outstanding dues. Thus, the Applicant filed present Application under Section 9 of Code. As per Part IV of Form-V of the Application, total amount claimed by the Applicant is Rs. 1,96,85,265/- and date of default is mentioned as 22.04.2021.

6. The Corporate Debtor had filed its reply through its director Mr. Mehul Patel being authorised through board resolution dated 06.12.2021. The Corporate Debtor in its reply had submitted that due to financial crunches and on account of downfall of market it was unable to pay the outstanding amount of Rs. 1,96, 85,265/- to the Applicant.

7. Considered the submissions made. In view of admission made in the reply, it is apparent that the payment of claim amount has been defaulted by the Corporate Debtor to the Applicant. In these circumstances the claim stands established and prima facie there is default in payment of the amount due to the Applicant without any dispute in existence.

8. The registered office of the Corporate Debtor is situated in Ahmedabad, Gujarat and therefore this Adjudicating Authority has jurisdiction to entertain and try this Application.

9. As per the delivery note dated 12.04.2021 annexed by the Applicant the amount was payable within 10 days. Accordingly, the date of default is mentioned as 24.04.2021. The instant Application is filed in December 2021.

Hence, the Application is not time barred and is filed within the period of limitation.

10. An Affidavit under Section 9 (3) (b) to the effect that no reply to notice is given by the Corporate Debtor relating to any dispute of the unpaid operational debt is filed by the Applicant. Also, in compliance of Section 9(3)(c), the bank statement for the period from 01.04.2021 to 18.11.2021 of the account of the Applicant maintained with Axis Bank is annexed showing no amount received from the Corporate Debtor in the given period. The instant IB Application being complete in terms of Section 9 (5) is admitted and CIRP is initiated against the Corporate Debtor.

11. The Applicant has named Mr. Dhaval Jitendrakumar Mistry having Registration Number IBBI/IPA-001/IP-P-01853/2019-20/12849 (email: [cadhavalmistry@yahoo.com](mailto:cadhavalmistry@yahoo.com), Address: 9-B, Vardan Complex, Near Vimal House, Lakhundi Circle, Navrangpura, Ahmedabad-380014), duly registered with Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional whose consent in Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 stating therein that no disciplinary proceedings are pending against the named IRP, is on record. Accordingly, we appoint Mr. Dhaval Jitendrakumar Mistry as IRP of the Corporate Debtor.

12. As a consequence of the Application being admitted in terms of Section 9(5) of the Code and moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Corporate Debtor prohibiting all of the actions mentioned under Section 14(1)(a) to (d). However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

13. We direct the Applicant to deposit a sum of Rs. 2,00,000/- with the Interim Resolution Professional, namely CA Dhaval Jitendrakumar Mistry to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The needful shall be done within one week from the date of receipt this of order by the Operational Creditor.

14. The IRP shall duly file the status report appraising this Adjudicating Authority about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Sections 17 and 19 of Code all personnel of the Corporate Debtor including its promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

15. Copy of the order shall be communicated to the Applicant, Corporate Debtor as well as to the IRP appointed herein, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records and also to RoC for updating the Master Data. RoC shall send compliance report to the Registrar, NCLT.

16. Application is allowed and disposed of.

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**AJAI DAS MEHROTRA,  
MEMBER (TECHNICAL)**

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**DR. DEEPTI MUKESH  
MEMBER (JUDICIAL)**

*Mansi/LRA*