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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

CP/1135/IB/2018 filed under Section 9 of
the Insolvency and Bankruptcy Code, 2016
r/w Rule 6 of the Insolvency and
Bankruptcy (Application to Adjudicating
Authority) Rules, 2016

In the matter of M/s. Weewinn Tex Processorr (India) Private Limited

M/s. Saravanaa Distributors
Partnership Firm

... *Operational Creditor*

-vs-

M/s. Weewinn Tex Processorr (India) Private Limited

... *Corporate Debtor*

Order delivered on 6th September, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Operational Creditor : Mr. A.G.Sathyannarayana &
Mr. Abishek Murthy
for M/s. A.K.Mylsamy & Associates LLP, Counsel

For Corporate Debtor : *ex-parte*

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Adjudication is CP/1135/IB/2018 that has
been filed by the Operational Creditor under Section 9 of
the Insolvency & Bankruptcy Code 2016 (in short, I&B

Code, 2016) r/w Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. As seen from the record, on 18.06.2019, there was no representation on behalf of the Corporate Debtor despite sufficient opportunities. Hence, the Corporate Debtor was proceeded *ex parte* on 18.06.2019.

3. Heard the Counsel for the Operational Creditor and perused the record placed on file.

4. The Operational Creditor has claimed an amount of Rs.19,51,089/- including interest at the rate of 18% p.a. as outstanding against the Corporate Debtor, which initially the Corporate Debtor has failed to pay.

5. The brief facts of the case are that the Operational Creditor has supplied binders, stabilizers, fixing agent and related "Archroma" chemical products to the Corporate Debtor during the period from 12.06.2014 to 11.01.2018. Thereafter, the Operational Creditor raised Invoices on the Corporate Debtor for the materials supplied on various dates. The Operational Creditor has placed on record the Work Sheet at page 92 of the typed set filed with the Application wherein the details of Invoices and the amount outstanding along with interest from the Corporate Debtor to the Operational Creditor are mentioned.

6. The Counsel for the Operational Creditor has referred to the document placed at page 13 of the typed set filed with the Application which is the Confirmation of Balance as on 31.03.2017 wherein the Corporate Debtor has acknowledged the balance outstanding amount due to it to the Operational Creditor by stating that the statement

issued by the Operational Creditor is correct and the amount tallies with their books of accounts.

7. The Operational Creditor has sent Form-3 Demand Notice dated 29.06.2018 under Section 8 of I&B Code, 2016 to the Corporate Debtor wherein the amount of debt claimed is being mentioned. The copy of notice is placed at pages 7 to 11 of the typed set filed with the Application and same was delivered on the Corporate Debtor on 03.07.2018, copy of Track Delivery Report is placed at page 12 of the typed set filed with the Application, to which a reply was given by the Corporate Debtor on 11.07.2018 wherein it is stated that in spite of difficult circumstances being faced by the Company, the Corporate Debtor is taking all possible steps to settle the dues to their valued suppliers at the earliest possible time. The Corporate Debtor has further stated in its reply that they are expecting inflow of funds into their system in the next couple of weeks and they will arrange to settle the dues of the Operational Creditor within a period of three months from that date. Copy of reply is

placed at pages 90 and 91 of the typed set filed with the Application.

8. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016, by filing Affidavit wherein under Para 4, it has been deposed that no notice of any existence of dispute or a pendency of a suit or arbitration proceedings has been given by the Corporate Debtor with regard to the unpaid operational debt. The Affidavit is placed at pages 94 and 97 of the typed set filed with the Application. The Bank certificate dated 06.06.2018 issued by the Assistant Manager of City Union Bank Limited, Erode Branch is placed on record at page 99 of the typed set filed with the Application.

9. On 14.11.2018, the Corporate Debtor filed Affidavit along with documents wherein it has been stated that the Operational Creditor has entered into an understanding with the Corporate Debtor for settlement of dues and pursuant to which the Operational Creditor has received 10

Cheques from the Corporate Debtor towards the clearance of all the sums of pending Invoices of the Operational Creditor, out which the Operational Creditor has encashed two Cheques. In this connection, during the course of arguments, the Counsel for the Operational Creditor has fairly admitted that only a sum of Rs.6,38,012/- is balance outstanding due to the Operational Creditor by the Corporate Debtor as on 23.01.2019.

10. However, on 10.04.2019, the Counsel for the Corporate Debtor appeared and submitted that some portion of the outstanding debt has already been paid by the Corporate Debtor and prayed for time to make more payments. Thus, there is a clear admission of the outstanding debt by the Corporate Debtor.

11. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Bench is satisfied that the Corporate Debtor has committed default in making balance payment of the outstanding debt

claimed by the Operational Creditor. Therefore, the Application is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

12. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, namely: -

- (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 (54 of 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.

13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

14. Mr. A.R.Ramasubramania Raja, is hereby appointed as IRP as has been proposed by the Operational Creditor. There is no disciplinary proceeding pending against the IRP as reflects from Form-2. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016, within three days from the date the copy of this

order is received, and call for submissions of claim in the manner as prescribed.

15. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

16. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016. The address details of the IRP are as follows: -

Mr. A.R.Ramasubramania Raja,
Reg.No.IBBI/IPA-002/IP-N00635/2018-19/11982
No.3, Sundaram Brothers Layout,
Opp. to All India Radio,
Trichy Road, Ramanathapuram,
Coimbatore – 641 045
Mobile No. 98430 43576
Email ID: arrsraja@yahoo.com

17. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

18. Order is pronounced in open court.

-SD-
ANIL KUMAR B
MEMBER (TECHNICAL)

-SD-
CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)

P.ATHISTAMANI