

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CP (IB) No.146/9/HDB/2019
Under section 9 of the IB Code, 2016
Read with Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

In the matter of:-

M/s. MAHADEV PROFILES PRIVATE LIMITED

M/s. Deepak Fasteners Limited,
Regd. Office: 4th Floor, 1st Mall,
Mall Road, Ludhiana,
Punjab - 141 001.

...Petitioner/
Operational Creditor

Versus

M/s. MAHADEV PROFILES PRIVATE LIMITED,
Regd. Office: #A-30, Shankar Towers,
Beside Allahabad Bank, Balanagar,
Hyderabad, Telangana - 500 037.

...Respondent/
Corporate Debtor

Order delivered on:02.08.2019



Hon'ble MEMBER (JUDICIAL) K.ANANTHA PADMANABHA SWAMY,

Parties/Counsels Present:

For the Petitioner/Operational Creditor:

Shri. Abhishek Dash, Counsel

For the Respondent/Corporate Debtor:

None [ex-parte]

PER: K.ANANTHA PADMANABHA SWAMY (MEMBER JUDICIAL)

ORDER

1. Under consideration is a Company Petition filed by M/s. M/s. Deepak Fasteners Limited (in short, 'Petitioner/Operational Creditor') against M/s. MAHADEV PROFILES PRIVATE LIMITED (in short, 'Respondent/Corporate Debtor') under section 9 of the Insolvency and Bankruptcy Code 2016 (in short, I & B Code 2016) Read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').

2. The Petitioner Company is a Company registered under the Companies Act, 1956 and having its Regd. Office: 4th Floor, 1st Mall, Mall Road, Ludhiana, Punjab and it is engaged in the business of manufacturing various hardware products. The Respondent/Corporate Debtor is a Company registered under the Companies Act, 1956 having its Registered Office #A-30, Shankar Towers, Beside Allahabad Bank, Balanagar, Hyderabad, Telangana State and the Respondent /CD regularly transacted with the Petitioner/OC.

3. The learned counsel appearing on behalf of the Petitioner/Operational Creditor submitted that the Respondent/Corporate Debtor placed an order with the Operational Creditor for the purchase of nuts and bolts, vide purchase order bearing No.MPPL/P.O/251/2016-2017 dated 21.01.2017 amounting to Rs.9,70,317/- (Rupees Nine Lakhs Seventy Thousand Three Hundred and Seventeen only).

4. It is stated that an amount of Rs.97,026/- (Rupees Ninety Seven Thousand Twenty Six Only) was credited in the HDFC Account of the Operational Creditor on 30.01.2017 as 10% advance payment by the Corporate Debtor.



no.30601 dated 24.04.2017 amounting to Rs.24,773/- (Rupees Twenty Four Thousand Seven Hundred and Seventy Three Only) vide invoice no.30616 dated 25.04.2017 amounting to Rs.6,48,621/- (Rupees Six Lakhs Forty Eight Thousand Six Hundred and Twenty One Only) and invoice no.30736 dated 26.04.2017 amounting to Rs.2,96,924/- (Rupees Two Lakhs Ninety Six Thousand Nine Hundred and Twenty Four Only) and the Corporate Debtor issued a cheque for the balance amount of Rs.8,73,285/- (Rupees Eight Lakhs Seventy Three Thousand Two Hundred and Eighty Five Only) dated 05th May, 2017 but the same cheque was never received by the Operational Creditor and the same has been lost before reaching the Petitioner/OC. The Operational Creditor vide letter dated 25th May, 2017 asked the Corporate Debtor to settle the account.

6. It is stated that the Corporate Debtor vide its email dated 20.07.2017 admitted the due amount and further promised to release the pending payment. The Operational Creditor sent various reminders to the Corporate Debtor to clear the amount due and submit C Forms.

7. The Operational Creditor further stated that the Operational Creditor has till date supplied goods worth Rs.19,40,638/- (Rupees Nineteen Lakhs Forty Thousand Six Hundred and Thirty Eight Only) and amount of Rs.8,73,285/- (Rupees Eight Lakhs Seventy Three Thousand Two Hundred and Eighty Five Only)

is still due from the Corporate Debtor and the Corporate Debtor till date has not submitted C FORMS for an amount of Rs.19,40,638/- (Rupees Nineteen Lakhs Forty Thousand Six Hundred and Thirty Eight Only) for which the Central Sales Tax Department has issued notice for imposition of penalty for an amount of Rs.1,08,977/- (Rupees One Lakh Eight Thousand Nine Hundred and Seventy Seven Only).

8. It is stated that a Demand Notice under Form 3 dated 22.06.2018 was served upon the Corporate Debtor in accordance with the provisions of



Seventy Three Thousand Two Hundred and Eighty Five Only) along with interest 18% per annum amounting to Rs.10,30,376/- (Rupees Ten Lakhs Thirty Thousand Three Hundred and Seventy Six Only) and Rs.1,08,977/- (Rupees One Lakh Eight Thousand Nine Hundred Seventy Seven Only) towards non-submission of C Forms as per Central Sales Act.

9. The Learned Counsel for the Petitioner/Operational Creditor in its Application has attached copy of several documents in order to prove the existence of Operational Debt and amount in default. The following Purchase Order, Statement of Accounts, various invoices and lorry receipts etc., are filed as stated below:

- Copy of Purchase Order bearing No.MPPL/P.O/251/2016-2017 dated 21.01.2017.
- Copy of Statement of Accounts of HDFC Bank.
- Copy of various invoices issued by the Corporate Debtor along with the Lorry Receipts.
- Copy of Letter dated 25.05.2017.
- Copy of e-mail Correspondence.
- Copy of Demand Notice dated 22.06.2018 sent by Operational Creditor to the Corporate Debtor demanding payment of due amount.
- Tabular Computation of the amount pending.
- Copy of the postal receipt and e-mail Correspondence showing that the Demand Notice has been served upon the Corporate Debtor.
- No dispute affidavit.
- Copy of the Master Data of the Corporate Debtor.
- Copy of Certificate of Incorporation of the Operational Creditor.
- Copy of Proof of service upon Corporate Debtor (e-mail and postal receipts)



- Copy of e-mails between the Petitioner/OC & Respondent/CD dated 29.11.2018 and 06.12.2018 admitting the debt.
- Copy of Demand Draft.

10. The matter was posted for hearing on various dates viz., 13.03.2019, 05.04.2019, 24.04.2019, 09.05.2019, 06.06.2019, 14.06.2019, and 03.07.2019. The Counsel representing the Petitioner/Operational Creditor was present and made his submissions. The Respondent/Corporate Debtor failed to appear before this Adjudicating Authority either by itself or through a representative despite of granting sufficient time, hence the Respondent/Corporate Debtor was proceeded as *ex-parte* on 24.04.2019.

11. After hearing submissions of the counsel for the Petitioner/Operational Creditor and having perused the record, this Adjudicating Authority is satisfied that the Petitioner has proved its case by placing evidence that default has occurred for which the Corporate Debtor was responsible to pay. The Petitioner has also placed on record proof of sending notices to the Respondent/CD for his appearance and for making submissions and along with other material papers. The Petitioner has complied with all the requirement as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the Petitioner/OC this Adjudicating Authority is inclined to admit the instant Petition.

12. Accordingly, this instant petition is admitted and this Adjudicating Authority order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within the time period stipulated as per the Code, reckoning from the day this order is passed.

13. This Adjudicating Authority here by Appoint Me Medarametle, Gajin



Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Insolvency and Bankruptcy 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.

14. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purpose referred to in Section 14 of the I & B Code, 2016. It is hereby 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);*
- The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*

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

16. The IRP shall comply with the provisions of Sections 13 (2), 15, 17, & 18 of the Code. The directors of the Corporate Debtor, its promoters or any



under Section 19 and for discharging his function under Section 20 of the I & B Code, 2016.

17. 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.
18. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
19. The detailed address of the IRP are as follows:-
Ms.Medarametla Srinivasa Mano Ranjani
IBBI/IPA-001/IP-P00736/2017-2018/11235
e-mail: mano3ranjani@gmail.com
Cell:9848559322.

The instant Petition is hereby admitted.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

KSK

Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER... (P/IB) No. 146/9/HDB/2019.
निर्णय का तारीख
DATE OF JUDGEMENT... 2/8/19
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 9/9/19