

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

**C.P.(I.B) No.44/NCLT/AHM/2020**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.01.2021**

Name of the Company: Nand Enterprise  
V/s  
Jinaam's Dress Ltd

Section 9 of the Insolvency and Bankruptcy Code,  
2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.


2.


**ORDER**

(Through Video Conferencing)

PCS, Mr. Vindokumar S. Shah is present on behalf of the petitioner and Advocate, Mr. Digant Kakkad is present on behalf of the respondent.

The order is pronounced in the open court, vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER (TECHNICAL)**

  
**MANORAMA KUMARI  
MEMBER (JUDICIAL)**

Dated this the 12<sup>th</sup> day of January 2021

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

C.P. (I.B.) No. 44/9/NCLT/AHM/2020

**In the matter of:**

**Mr. Ketan Lavingiya, Karta**  
of Ketan Narendrabhai Lavingiya  
HUF, Proprietor of **M/s. Nand  
Enterprise**

Having its address at:  
B-207, Udhyognagar Com.  
Complex, Nr. Divyabhaskar Press,  
Road No. 10, Udhana,  
Surat- 394210, Gujarat

...Applicant  
(Operational Creditor)

**Versus**

**M/s. Jinaam's Dress Limited**  
Having its Registered Office at:  
Plot- 524, Road No.-5, Sachin  
GIDC, Sachin, Surat- 395002,  
Gujarat.

...Respondent  
(Corporate Debtor)

**Order delivered on 12.01.2021**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)  
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:**

Learned PCS, Mr. Vinodkumar Shah appeared on behalf of the  
Petitioner.

None appeared on behalf of the Respondent.

**ORDER**

**[Per se: Mr. Chockalingam Thirunavukkarasu, Member (Technical)]**

*Chockalingam*

*Manorama*

1. Mr. Ketan Lavingiya, Karta of Ketan Narendrabhai Lavingiya HUF, Proprietor of **M/s. Nand Enterprise** filed this Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter to as "the Rules"), as Operational Creditor/Applicant.
2. The respondent/corporate debtor is a limited company registered under the provision of the Companies Act, 1956 on 04.03.2011, having CIN No.U17120GJ2011PTC064247 and having registered office at Surat, Gujarat. Authorised share capital of the respondent company is 24,00,00,000/- and paid-up share capital is 10,00,00,000/-
3. The Applicant is having office at Surat engaged in the business of trading of chemicals required for manufacturing of textile has submitted that the respondent/corporate debtor is indebted a total sum of Rs.10,30,917 (Rupees Ten Lacs Thirty Thousand Nine Hundred Seventeen Only) to the applicant towards the goods supplied during the period from 16.02.2017 to 22.01.2019 and the last payment was received from the corporate debtor on 15.06.2019 as per the details annexed at page no. 19 -63. That, the invoices became due for payment after 45 days of the date or respective tax invoice. That, the aforesaid amount excludes interest @ 12% per annum from due dates till actual realization thereof.
4. In support of its claim, the applicant has annexed to the application copy of documents like; copies of invoices and delivery challan under which sums are due and outstanding,




  
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demand notice dated 07.09.2019 along with delivery proof and track report, computation of default and interest thereon, Bank statement of the Operational Creditor, Copy of Ledger in the books of Operational Creditor, affidavit under section 9(3)(b) of the Code, etc.

5. The applicant has stated that despite repeated reminders the respondent has not paid the outstanding operational debt, therefore, the applicant was compelled to issue demand notice under section 8 of the Code in form 3 on 07.09.2019 calling upon the respondent to clear the operational debt.
6. The respondent/corporate debtor has filed an affidavit in reply dated 11.09.2020 and submitted that we have sent an email to the operational creditor on 06/09/2020 for settling the case with a timeline of payment to clear the principal amount due and requested for substantial time being granted for the same due to business low down impact due to COVID -19 and given installment payment schedule from September 2020 to Feb. 2021. A copy of the email dated 08.09.2020 is annexed with the reply.
7. Heard the learned Counsel for both sides and perused the documents annexed to the application/reply submitted by the parties.
8. On perusal of the records, it is found that the instant petition was filed on 20.12.2019. The invoices were raised from 16.02.2017 to 22.04.2019 and the last payment was received from the corporate debtor on 15.06.2019. The demand notice issued by the applicant under section 8 of the Code on 07.09.2019 has been served upon the corporate debtor. The petition filed by the applicant is within the limitation period.



  
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The corporate debtor has admitted the debt and not raised a pre-existing dispute and has not paid the amount due. The application is complete.

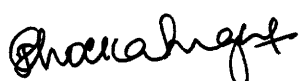
9. In view of the above and based on material available on record it is evident that the corporate debtor has committed default in payment of operational debt and, therefore, it is a fit case to initiate the Insolvency Resolution Process by admitting the Application under Section 9(5)(1) of the Code.
10. The Operational Creditor has proposed the name of Mr. Kailash T. Shah having Registration No. IBBI/IPA-001/IP-P000267/2016-17/10511 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(c) of the IB Code and written communication in Form -2 of IBBI has been submitted by the proposed IRP.
11. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code:-
  - (i) 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.
  - (ii) Transferring, encumbering, alienating, or disposing of by the Corporate Debtor, any of its assets or any legal right or beneficial interest therein;
  - (iii) Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under

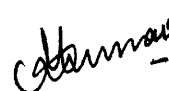
*Shankar Singh*

the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(54 of 2002);

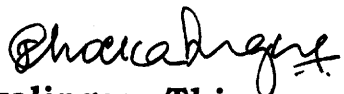
(iv) the recovery of any property by an owner as lessor where such property is occupied by or in the possession of the Corporate Debtor.


12. The supply of goods and essential services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period. The provisions of sub-section (1) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
13. The order of moratorium shall affect the date 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.
14. This Adjudicating Authority hereby appoints Mr. Kailash T Shah having Registration No. IBBI/IPA-001/IP-P000267/2016-17/10511 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(c) of the IB Code. Further, this Adjudicating Authority direct the "Interim Insolvency Resolution Professional" to make public announcement of initiation of Corporate Insolvency Process and call for submission of claims under section 15 as required by section 13(1)(b) of the Code.
15. This Petition CP(IB) 44/9/NCLT/AHM/2020 is accordingly admitted.





16. Communicate a copy of this order to the Applicant, Corporate Debtor, Registrar of Companies, and to the Interim Resolution Professional.
  
17. Registry is directed to inform the office of Registrar of Companies that the respondent company is under corporate insolvency resolution process and, therefore, no proceedings for striking off the name of the respondent company be initiated arising out of non-compliance of sections 159 to 162 & 220 etc. of the Companies Act, 2013 as it would be detrimental to the process of CIRP/liquidation and sale of assets to realize the amount for all the stakeholders.

  
**Chockalingam Thirunavukkarasu**  
**Adjudicating Authority**  
**Member (Technical)**

  
**Ms. Manorama Kumari**  
**Adjudicating Authority**  
**Member (Judicial)**

R.S.