BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

C.P. (I.B) No. 339/9/NCLT/AHM/2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 18.12.2020

Name of the Company: Vardhman Textiles
V/s
Bansal Multiflex Ltd

Section: 9 of the Insolvency and Bankruptcy Code

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 18th day of December, 2020.

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1

CP (IB) No.339/9/NCLT/AHM/2019

In the matter of:

M/s. Vardhman Textiles
24, Ganesh Colony, Gali No.8,
Near Nakoka Industrial Area,
2nd Phase, Basni,
Jodhpur (Rajasthan).

... Operational Creditor

V/s.

M/s. Bansal Multiflex Limited
72, The Nutan Guj. Co. Op. Shops and
Ware Houses Soc, O/s Raipur Gate,
Near Laxmi Cotton Mill,
Ahmedabad (Gujarat) 380022.

... Corporate Debtor

Date of Hearing: 15th December, 2020
Date of Pronouncement: 18th December, 2020

Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)

Appearance:
Learned Counsel Mr. Vishal Dave, for the Operational Creditor.
None for the Corporate Debtor.

ORDER

[Per: Madan B. Gosavi, Member (Judicial)]
(Through Video Conferencing)

1. M/s. Vardhman Textiles, the Proprietorship firm, through its proprietor Mr. Varun Jethmal Maloo filed this application under Section 9 of the Insolvency and Bankruptcy Code, 2016, against M/s. Bansal Multiflex Limited – the Corporate Debtor to initiate the Corporate Insolvency Resolution Process ("CIRP") of M/s. Bansal Multiflex Limited – the Corporate Debtor on the ground that in-spite of service of demand notice, the Corporate Debtor committed default in paying operational debt of Rs.28,17,083/-.

2. It is stated that the period, in between 08.08.2017 to 02.01.2019, the Operational Creditor sold and supplied various descriptions of textile goods as demanded by the Corporate Debtor. Various invoices were raised against the bill. The Corporate Debtor issued in favour of the Operational Creditor, number of cheques to pay the outstanding amount. These cheques were drawn on Yes Bank, Jawahar Chowk, Maninagar, Ahmedabad Branch and issued on 29.12.2018. All the cheques presented were dishonoured by the banker of the Corporate Debtor for the reason 'Payment Stopped by the Corporate Debtor.' The Operational Creditor has filed proceeding under Section 138 of the Negotiable Instrument's Act and it is pending.

3. On 18.02.2019, the Operational Creditor serviced on the Corporate Debtor, notice of demand under Section 8 of the I.B. Code. The notice has been duly received by the Corporate Debtor but the Corporate Debtor did not pay the dues nor replied the notice pointing any pre-existing dispute. Hence, this application is filed against the Corporate Debtor to start the Corporate Insolvency Resolution Process of the Corporate Debtor.

4. The notice of this application is received by the Corporate Debtor. On behalf of the Corporate Debtor, Mr. Anup Bansal, one of the Director, filed affidavit-in-reply on 02.03.2020. We have gone through the affidavit-in-reply. In Para(s) 7 and 9 of the reply, the Corporate Debtor contended that the goods delivered by the Operational Creditor were of low-quality and in-spite of instructions, the Operational Creditor did not take back the goods. There is a pre-existing dispute.

5. We heard the Learned Counsel for the Operational Creditor and Learned Counsel for the Corporate Debtor. It is not in dispute that the Operational Creditor had sold and supplied the goods worth Rs.28,17,083/-. The goods were received by the Corporate Debtor on 29.12.2018. The Corporate Debtor issued number of cheques to repay the amount but the cheques were dishonoured. In view of facts, we held that the defense as raised by the Corporate Debtor in affidavit-in-reply that goods were of low-quality and there exists any pre-existing dispute about the goods sold – is an

afterthought and only to avoid the admission of the CIRP against the Corporate Debtor.

6. The Operational Creditor had produced on record, all invoices under which, the goods sold and supplied to the Corporate Debtor. It has produced on record, the copy of demand notice and affidavit to show the notice has been duly received by the Corporate Debtor. It is not in dispute that the Corporate Debtor did not reply the notice pointing out pre-existing dispute within ten days.

7. The Operational Creditor has produced the 'Bank Statement' to show that he did not receive the claimed amount. He has also filed an affidavit complying the provisions of Section 9(3)(b) and 9(3)(c) of the I. B. Code.

8. The Operational Creditor has not suggested name of any Resolution Professional for the appointment of the Interim Resolution Professional and let the matter discretion of this authority.

9. This application is defect free. Hence, we admit the Corporate Debtor in the Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 by following order:

ORDER

1. The Corporate Debtor, **M/s. Bansal Multiflex Limited,** having **CIN: L36100GJ2013PLC077651** is admitted in

Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016.

2. The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

   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;

   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.

3. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for

liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

4. We hereby appoint **Mr. Balmukund Bhagchand Kabra, having registration no. IBBI/IPA-001/IP-P00544/2017-2018/10974, email: bkabraco@yahoo.com,** to act as an IRP under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made thereunder:

5. The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

6. This Adjudicating Authority directs the IRP to make a public announcement of initiation of Corporate

Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.

7. It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

8. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Operational Creditor is directed to pay an advance of **Rs.50,000/- (Rupees Fifty Thousand Only)** to the IRP within two weeks **from the date of this order** for the purpose of smooth conduct of Corporate Insolvency Resolution Process ("CIRP") and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

9. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the

same on website immediately after pronouncement of the order.

10. Accordingly, CP (IB) No.339/9/NCLT/AHM/2019 stands admitted.

(Virendra Kumar Gupta)	**(Madan B. Gosavi)**
Member (Technical)	**Member (Judicial)**

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