NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item 52
C.P. (IB) 4196(MB)/2019

CORAM:

SH. K. K. VOHRA	JUSTICE P.N. DESHMUKH (Retd.)
HON'BLE MEMBER (T)	HON'BLE MEMBER (J)

ORDER SHEET OF THE HEARING ON **03.06.2022**

NAME OF THE PARTIES**: -** **Jai Corp Limited**
V/s
Vama Wovenfab Pvt Ltd

Appearance (via video-conference):

For the Applicant : Ms. Suyesha Kakarla, Advocate

For the Respondent : None present

Section 9 of the IBC, 2016

ORDER

The order is pronounced. Petition is Admitted vide separate order.

Sd/-	**Sd/-**
K. K. VOHRA	JUSTICE P.N. DESHMUKH
Member (Technical)	Member (Judicial)

Vedant

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I

CP (IB) 4196/MB/2019

Under section 9 of the Insolvency and Bankruptcy Code, 2016

Jai Corp Limited
[CIN: L17120MH1985PLC036500]
Reg. Office: A-3, MIDC Industrial Area, Nanded-431603

…Operational Creditor/Petitioner

Versus

Vama Wovenfab Private Limited
[CIN: U18109MH2011PTC214860]
Reg. Office- B/401, Royal Accord, Yogi Nagar, Borivali (W), Mumbai-400091

…Corporate Debtor/Respondent

Order Delivered on 03.06.2022

Coram:
Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical): Mr. Kapal Kumar Vohra

Appearances:

For the Operational Creditor : Ms. Suyesha Kakarla i/b Apex Law Partners.

For the Corporate Debtor : None Present.

ORDER

Per: Justice P.N. Deshmukh, Member (Judicial)

1. This Company Petition is filed under section 9 ("**the Petition**") of the Insolvency and Bankruptcy Code, 2016 **(IBC)** by **Jai Corp Limited ("the**

Operational Creditor or OC"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Vama Wovenfab Private Limited ("the Corporate Debtor or CD")**.

2. The Corporate Debtor was incorporated 16.03.2011 under the Companies Act, 1956. Therefore, this Bench has jurisdiction to deal with this petition.

<u>Brief Facts of the case:</u>

3. The present petition was filed on 21.11.2019 before this Adjudicating Authority (AA) on the ground that the Corporate Debtor failed to make payment of a sum of Rs.6,47,998/-(Rupees Six Lakh Forty-Seven Thousand Nine Hundred and Ninety-Eight only) as principal amount and interest of Rs.1,61,901.30 calculated @24% p.a. (Petition pg. 23). The date of default is 07.09.2018. The invoices provide for computation of interest @24%p.a. after the due date.

4. The Operational Creditor is a manufacturer, supplier and exporter of Master Batches of Flexible Intermediate Bulk Containers, woven sacks and fabrics, manmade fiber yarnsetc. The Corporate Debtor is involved in manufacture and export of PP plain transparent bags, plain PF carry bag containers, bobbins and packages.

<u>Submissions made by OC:</u>

5. The Corporate Debtor placed orders vide various purchase orders with Operational Creditor and the same was delivered, Operational Creditor issued different invoices totalling to Rs.6,47,998/- (Rupees Six Lakh Forty-Seven Thousand Nine Hundred and Ninety-Eight Only) to the Corporate Debtor. Copy of purchase orders and tax invoices is annexed as Annexure II (Pg. 16-23).

6. The Corporate Debtor accepted the order without any demur or protest.

7. After repeated requests to pay the operational debt, the Operational Creditor issued demand notice in Form 3 and 4 on 26.09.2019 as required under the IBC, 2016, however, the CD failed to reply to the said notice and to make payment. Copy of the demand notice is annexed as Annexure 1 to the Application.

8. The details of the transactions are as follows:

Invoice No.	Date	Invoice Amount Rs.
Invoice no.	09.07.2018	2,22,660
Invoice no.	10.07.2018	2,08,624
Invoice no.	17.07.2018	2,18,714
Interest		1,61,901.30
Total Outstanding amount as on 25.10.2019		**8,09,899.30**

Interest Calculation Sheet is annexed as Annexure 1 to the Application.

9. It is observed from the records that CD has been given multiple opportunities to appear before this Tribunal and plead his case. The corporate debtor chose not to appear and plead or file his reply on record. Therefore, the Corporate Debtor set *ex-parte* and the matter is taken on its merit.

Findings:

10. We have heard the submissions of the Counsel appearing for the OC.

11. The amount outstanding is above Rs. 1 lakh and since the present petition was filed before the amendment increasing threshold limit, the present petition is in compliance with section 4(1).

12. The Corporate Debtor has not replied to demand notice and Application as required under the Code; therefore matter is taken on merits.

13. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

14. The petition bearing **CP (IB) 4196/MB/C-I/2019** filed by **Jai Corp Limited,** the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Vama Wovenfab Private Limited [CIN: U18109MH2011PTC214860],** the Corporate Debtor, is **admitted**.

15. There shall be a moratorium under Section 14 of the IBC, in regard to the following:

    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 (SARFAESI) Act, 2002;

d. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

16. Notwithstanding the above, during the period of moratorium: -

a. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

b. The provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

17. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

18. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

19. The Tribunal hereby appoints **Mr. Ajay Vijaykumar Agrawal**, Registration No. IBBI/IPA-001/IP-P00046/2017-2018/10120, Email: ajayamarca@yahoo.com as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.

20. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

21. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing

public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

22. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

23. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

24. Ordered accordingly.

Sd/-	**Sd/-**
KAPAL KUMAR VOHRA **Member (Technical)**	**JUSTICE P. N. DESHMUKH** **Member (Judicial)**

03.06.2022
SAM