

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
COURT - 2**

COMPANY APPLICATION No. CP (IB) 116/NCLT/AHM/2020

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

In the Matter of:

Hindprakash Tradelink Private Ltd.

**Applicant/
Operational Creditor**

Versus

Meghna Shree Petrochem Private Ltd.

**Respondent/
Corporate Debtor**

Order Pronounced on: 04/04/2022

Coram:

**Dr. Deepti Mukesh, Hon'ble Member(Judicial)
Ajai Das Mehrotra, Hon'ble Member (Technical)**

MEMO OF PARTIES

Hindprakash Tradelink Private Limited

101, Hindprakash House
Plot No. 10/6, Phase – 1
GIDC, Vatva
AHMEDABAD 382 445

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Applicant/Financial Creditor

Versus

Meghna Shree Petrochem Private Limited

809, 8th Floor
Hemkoot Building
Opp. Capital Commercial Centre
Ashram Road
AHMEDABAD 380 009

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Respondent/Corporate Debtor

Appearance:

For Applicant :

For the Respondent : Mr. Harsh Parekh, Advocate

ORDER

1. This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') on 31.01.2020 by Mr. Mavusinh Chhagusinh Rathod of **M/s. Hindprakash Tradelink Private Limited** (for brevity 'Applicant') authorised vide Board Resolution dated 27.11.2019, with a prayer to initiate the Corporate Insolvency process against **Meghna Shree Petrochem Private Limited** (for brevity 'Corporate Debtor').

2. The Applicant operational creditor is a private limited company incorporated under the provisions of Companies Act, 1956 and duly registered with the Registrar of Companies, Mumbai having identification No. U24231GJ1972PTC002082 and having registered office at GIDC, Vatva, Ahmedabad, Gujarat State engaged in the business of manufacturing dyestuff and dye intermediates, textiles, acrylic fibres, paints etc.
3. The corporate debtor is a limited company, incorporated under the provisions of Companies Act, 1956 on 22.04.2010, duly registered with Registrar of Companies, Ahmedabad with CIN: U24100GJ2010PTC060370 and having registered office at Ashram Road, Ahmedabad, Gujarat State. Authorised share capital of the corporate debtor is Rs. 1,00,000/- and paid up share capital of the company is Rs. 1,00,000/-. The corporate debtor company is engaged in the business of petrochemical industries.
4. It is submitted that against order of the corporate debtor dated 28.06.2019 the applicant had supplied N-Butylacrylate and Vinyl Acetate Monomer and had raised invoices dated 29.06.2019 and 04.07.2019. The corporate debtor never raised any dispute about quality and quantity of the goods supplied by the applicant. As per the terms of the bills the corporate debtor had to make payment upon completion of credit period of 70 days from the receipt of bill, however, the corporate debtor failed to make timely payment to the applicant. The corporate debtor issued two cheques of outstanding amount for Rs. 15,40,000/- dated 11.09.2019 and for Rs. 21,56,893 dated 06.09.2019, however, both the cheques were dishonoured by the bank. The corporate debtor is liable to make payment of principal outstanding of Rs.

36,97,643/- and interest @ 18% per annum Rs. 2,58,784/-.
Thus a total sum of Rs. 39,56,427/- is due and payable by the corporate debtor.

5. The applicant issued demand notice under section 8 of the IB Code dated 27.12.2019 calling upon the corporate debtor to make payment of the outstanding amount. Track consignment report filed by the applicant shows that the demand notice was delivered at the registered office of the corporate debtor on 30.12.2019, as per master data no notice of dispute was raised by the corporate debtor by replying to said demand notice sent by the applicant.
6. The applicant filed application under Section 9 of the IB Code on 31.01.2020. As per part IV form 5 an amount of Rs. 39,56,427/- (Rupees thirty-nine lacs fifty-six thousand four hundred twenty-seven only), which included interest @ 18% per annum of Rs. 2,58,784/-, due and payable to the applicant by the corporate debtor.
7. Corporate Debtor filed affidavit in reply inter alia stating that:
 - The demand notice issued by the operational creditor is not in conformity with the provisions of the IB Code;
 - There is no contract between the parties for payment of interest @ 18% per annum;
 - The goods supplied by the applicant were defective and there is a pre-existing dispute with regard to quality of the goods;
8. The applicant filed written submissions inter alia stating that with respect to contention the contention taken in the reply about the

defective goods supplied by the applicant, no record is produced by the corporate debtor in support of such contention. The demand notice dated 27.12.2019 issued by the applicant was duly served on the respondent by speed post on 30.12.2019. The respondent has not replied to the said notice raising any such dispute with respect to quality of goods.

9. The registered office of the corporate debtor is situated in Gujarat and, therefore, this Tribunal has jurisdiction to entertain and try this application.
10. As per part IV, form 5 date of default is 07.09.2019 and the application is filed on 31.01.2020. Therefore, the application is not barred by limitation.
11. Heard submissions and perused the documents on record. On perusal of the records it is found that in the invoices raised by the applicant, it is clearly written that "interest @ 18% per year will be charged extra after due date". The corporate debtor has failed to place on record any evidentiary documents to prove pre-existing dispute with the applicant. By issuing cheques dated 11.09.2019 and 06.09.2019, which were dishonoured, the corporate debtor has admitted that an outstanding was due and payable to the applicant which makes it clear that the corporate debtor failed to make payment to the applicant despite having admitted the liability of the debt. In fact, there is no substantive material brought on record by the corporate debtor with respect to any pre-existing dispute before issuance of the demand notice. On the contrary issuance of cheques accounts to admission of debt.

12. The present application is complete and the applicant is entitled to claim its dues. Therefore, the present application is admitted in terms of Section 9 (5) of the IB Code, 2016.
13. The applicant has proposed the name of Ms. Bhavi Shreyans Shah as Insolvency Resolution Professional, who is hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P00915/2017-18/11521 having office at C-201, Embassy Apartment, Dr. V.S. Road, Ambawadi, Ahmedabad 380 015 subject to the condition that no disciplinary proceedings are pending against him. Specific consent of the IRP is filed in Form 2 along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 which is on record.
14. We direct the Operational Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Ms. Bhavi Shreyans Shah to meet out the expenses to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.
15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1), shall follow in relation to the

Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

16. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-
Ajai Das Mehrotra
Member (Technical)

Sd/-
Dr. Deepti Mukesh
Member (Judicial)

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