IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
Company Petition (IB)No.82/ALD/2019

In the matter of:
The Insolvency and Bankruptcy Code,2016

AND
In the matter of:
Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

AND
In the matter of :

Blosil Labtech Private Limited
(Having its Registered Office at SCO,814 NAC , Man-imajara, Chandigarh-135001)

.....Operational Creditor/ Applicant.

VERSUS

Janardhan Industries Limited
(Having its Registered Office at 120,Indra Nagar Dehradun-248001)

.....Corporate Debtor/Respondent.

ORDER DELIVERED ON :28.08.2019

CORAM :
Sh. Abni Ranjan Kumar Sinha, Hon'ble Member (Judicial)

For the Applicant/ Operational Creditor: Ms. Babita Jain, PCS
For the Respondent/ Corporate Debtor: None.

AS PER: SH. ABNI RANJAN KUMAR SINHA, MEMBER, JUDICIAL

1. The present petition is filed under Section 9 of Insolvency and Bankruptcy Code,2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule,2016 by the Applicant/ operational creditor, i.e. **"Blosil Labtech Pvt Ltd"** for initiation of Corporate Insolvency Resolution Process against the Respondent/ Corporate Debtor Company **"M/s Janardhan Industries Limited."**.

2. The Applicant **"Blosil Labtech Pvt Ltd"**is a private Limited Company Incorportaed under Companies Act,1956 incorporated on 26th June 2009. bearing CIN No U33110CH2009PTC031671 . It is involved in Manufacture of medical appliances and instruments and appliances for measuring, checking, testing, navigating and other purposes except optical instruments.

3. The Respondent/Corporate Debtor **"M/s Janardhan Industries Limited."** is a Company Incorporated on 16th Semtember 1985 under the provision of Companies Act, 1956, bearing CIN No. U21011UP1985PLC007397. It is involved in Manufacture of paper and paper product. The authorised Share Capital of Corporate Debtor company is Rs. 3,00,00,000/-(Rupee Three Crores Only) and Paid-up Share Capital is Rs.2,90,84,500/- (Rupee Two Crores Ninety Lacs Eighty Four Thousand Five Hundred only).

The Corporate Debtor has changed its name from Janardhan Plyboard Industries Limited to Janardhan Industries Limited on 21.03.2016 in accordance to Sec 23 of The Companies Act, 1956 which states as :

Sec 23. ***Registration of change of name and effect thereof.***

(1) Where a company changes its name in pursuance of section 21 or 22, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a fresh certificate of incorporation with the necessary alterations embodied therein; and the change of name shall be complete and effective only on the issue of such a certificate.

(2) The Registrar shall also make the necessary alteration in the memorandum of association of the company.

(3) The change of name shall not effect any rights or obligations of the company, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the company by its former name may be continued by or against the company by its new name.

(Copy of the master data from official website of MCA and ROC Certificate is annexed as Annexure P-1 of the application.)

5. Brief facts raising to the present IB to petition are stated as follows:

i. The Petitioners have stated that Aakash Mittal, Director of the Company has been authorised on behalf of operational creditors in board resolution to submit application and to accept the service of process.. ***(Authorization letter dated 24.11.2019 to make application on behalf of Operational Creditor is annexed as P-10 of the application).***

ii. The PCS appearing for Operational Creditor has stated that the Blosil Labtech Pvt Ltd (Operational creditor) has supplied materials/good i.e Veneer to M/s Janardhan Industries Limited(Corporate Debtor) and the Amount of **Rs. 66,69,297/- (Rupees Sixty Six Lacs Sixty Nine Thousand Two Hundred Ninety Seven only)** has fallen due on account of material supplied by the operational creditor to the corporate debtor from the purchase orders in year 2015 and 2016 and the date of default is **27th November,2018**.The workings for computation of default annexed in tabular form as **"Annexure P-6 at page 107"**.

iii. Further, the operational creditor in support of its petition has annexed the following documents: -

(a) Petitioner has annexed a copy of the Demand Notice ***dated 27.11.2018*** *along with Invoices which were issued to Corporate Debtor and received by it in its in registered address.* ***(Annexure P-4 at pages 54-91 in the application).***

(b) The Petitioner/Operational Creditor has submitted an Affidavit regarding disclosure of the statement of Account of the bank where deposits are made, or credits normally received by the operational creditor and Bank Certificate that outstanding debt of above-mentioned amount was not received till date (***A Copy of Bank Statement is annexed Annexure P-8 at pages 109-115 of the application).***

(c) Further in compliance to section 9(5)(b) Operational Creditor stated that they have not received any reply to demand notice by Corporate Debtor raising to the demand raised by the Operational Creditor against the Operational Debt owed by corporate debtor.

6. A Perusing of the document annexed with the present IB petition. It may be seen that application, the petitioner has duly complied with the provision of section 9 of IB Code for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor company.

7. It is matter of record the respondent/ corporate debtor company despite sufficient notice issued to it, did not choose to contest the matter.Therefore this tribunal vide its order dated 13.08.2019 set the respondent as ex parte and proceeded further with the matters on its merits.

8. I have heard the arguments of the Ld. Counsel for the Operational Creditor and perused the material available on record.

9. It is matter of record that applicant filed a copy of invoices of the period ranging from 22.08.2015 to 14.09.2016, with the present petition filed and filed under section 9 of IB code on 06.03.2019 a perusal of the same goes to show that invoices of this period are found well within the limitation (As per section 238 A of IB Code) to triggered the CIRP in respect of corporate debtor.

10. Further this Petition is found to be filed in the prescribed format by a duly authorised person. The total amount claimed in default is of **Rs. 66,69,297/-** which is more than Rs One Lakh to triggred the CIRP .

11. In the present matter, it is the matter of record that the Corporate Debtor did not file the reply despite several opportunities granted. Therefore the Petitioner succeeded in proving its debt and the respondent failed to discharge its payment liability towards supply of goods to corporate debtor as per its purchase order. The Corporate Debtor has not paid the outstanding debt owed to operational creditor and despite demand notice, issued to it under Sec 8 of the Code. Therefore, the amount and default on the side of the respondent stand proved in the present case. Therefore, petitioner is found entitled to initiate corporate insolvency resolution process as against the Respondent.

12. It is also matter of record that Operational Debt owed by Corporate Debtor is of more than One lakh Rupees and perusal of record shows that Corporate Debtor failed to raise any dispute through its reply to demand notice within ten days after receipt of Demand Notice as mandated under section 8 (2)(a) of the Code, hence it can be assumed that there is no existence of dispute between Operational Creditor and Corporate debtor regarding outstanding debt.

13. Thus the Petitioner, in the present IB petition, has complied with section 9 (3) (b) and 9(3)(c) by filing supporting affidavit. As the petitioner fulfils the requirement for invoking CIRP in terms of Section 9 of the Code. The present application is found complete and the default of debts is established. Hence the present petition deserves for admission.

14. Hence it is hereby admitted, with following direction and observation-I declare a moratorium in respect of corporate Debtor company for purpose referred to in section14 of the Code with the following directions :

(i) Subject to provisions of sub-sections (2) and (3), on the insolvency Commencement date, the Adjudicating Authority shall by order declare a moratorium on prohibiting 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(*ii*) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

(iii) The provisions of sub-section (*1*) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(*iv*) The order of moratorium shall affect the date of 28.08.2019 till the completion of the corporate insolvency resolution process as prescribed Under section 12 of the code.

15. In the present matter, applicant had proposed the name of the IRP, ***Pramod Kumar Sharma , IBB1/IPA-002/IP-N00110/2017-2018/10258 Email: pksharmafcs@gmail.com*** as Interim Resolution Professional. Further IRP has filed a declaration in form 2 affirming that he is registered insolvency professional and no disciplinary proceedings are pending against him. ***(Annexed as Annexure P-13 of the application).*** Thus ***Pramod Kumar Sharma*** is appointed as Interim Resolution professional.

16. IRP is directed to cause public announcement of CIRP immediately as provided in Section 15 of the Code.

17. The registry is directed to communicate this order to Operational Creditor, as well as to Corporate Debtor and also to IRP.

FREE OF COST COPY

18. Urgent Photostat certified copies of this order, if applied for, be supplied to parties upon compliance of requisite formalities.

compared by me
Shilpi

List on **12.09.2019** for the filing of the progress report.

Sd

Abni Ranjan Kumar Sinha
Member(Judicial)

Date : 28.08.2019

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

28.8.19

27/08/19

S. A. MEHDI
DESIGNATED REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD U.P.