

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**COURT-V**

**Item No.-202**  
IB-3196/ND/2019

**IN THE MATTER OF:**

M/s Keshav Enterprises

....Applicant

**Vs**

Alupan Composite Panels Pvt Ltd

....Respondent

**SECTION**

U/s. 9 of IBC,2016

Order delivered on 24.01.2020

**CORAM:**

**SHRI ABNI RANJAN KUMAR SINHA**  
**HON'BLE MEMBER (JUDICIAL)**

**SHRI K.K. VOHRA,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant

: Mr. Onkar Nath

For the Respondent

: Mr. Saurabh Kumar Juneja

**ORDER**

In course of arguments, Ld. Counsel for petitioner submitted that on the basis on invoices annexed from page no. 41 to 51 he claimed Rs. 20,87,082/- mentioned at page 4 column 1 and in the above mentioned invoices, petitioner received last payment/amount on 30.08.2018, thereafter no further amount was received from the Corporate Debtor. He further submitted that under Section 8 of IBC, 2016, he sent the demand notice which is at page no. 85 and the same is duly delivered to the Corporate Debtor/respondent and at page no. 2, in his reply he admitted the debt. He further submitted that the Corporate Debtor appeared and filed his reply and admitted the debt in his reply.

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On the other hand, Mr. Saurav Kumar, appeared on behalf of the Corporate Debtor/respondent and submitted that due to financial crisis, he is not able to pay the amount and same was admitted in his reply.

Considering the submissions on behalf of the parties and the averments made in the application, we find since the debt is due and default was admitted by the Corporate Debtor/respondent in his reply. So, under such circumstances, we are of the considered view that the petitioner has completed all the provisions mentioned in section 8 of the IBC, 2016 and there is default of payment which was due. Hence, we think it proper to admit this petition.

It is seen that, there is default in payment & there is some operational debt of Rs. 20,87,082/- and no dispute has been raised by the Corporate Debtor. Since, the amount in default is more than Rs. 1,00,000/- is being the minimum threshold limit fixed under IBC, 2016. Under such circumstances this Adjudicating Authority is inclined to admit this petition and initiate CIRP of the respondent. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the IBC, 2016 shall come into effect forthwith staying:-

1. ~~effect forthwith staying:-~~

(a) *the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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;*



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*(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.*

Further:

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

*(3) 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.*

*(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.*

Accordingly, we appoint the **Mr. Dharmendra Kumar as the IRP**, details are as Registration No-IBBI/IPA-001/IP-N000112/2017-2018/11264 e-mail:- [kumard36@hotmail.com](mailto:kumard36@hotmail.com). He shall take steps as are required under the statute, more specifically in terms of Section 15,17 & 18 of the code and file his report.

Ld. Counsel for Operation Creditor undertakes to deposit the fee of the IRP to meet immediate expense within two weeks. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Operational Creditor to be recovered as CIR costs.



Registry is directed to communicate the order with the IRP as well both the parties.

SD/-

(K.K. VOHRA)  
MEMBER (T)

SD/-  
24.01.2020

(ABNI RANJAN KUMAR SINHA)  
MEMBER (J)

Chirag