

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

CP (IB)2651(MB)/2019

Under Section 9 of Insolvency &
Bankruptcy Code, 2016

Risa International Limited

Operational Creditor

Vs.

Vallari Trading Private Limited

Corporate Debtor

Order delivered on: 17.10.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)
Appearances

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

For the Applicant : Ms. Raina Birla, Advocate

For the Respondent : None

ORDER

Per: V.G. Bisht, Member (Judicial)

1. This is an application being C.P. (IB) No. 2651/NCLT/MB/C-I/2019 filed on 18.06.2019 by Risa International Limited, the Operational

Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B Code) for initiating Corporate Insolvency Resolution Process (CIRP) in the matter of Vallari Trading Private Limited, the Corporate Debtor.

2. The Application is filed by Mr. Abhinandan Jain, on behalf of the Operational Creditor, in his capacity as whole time Director in terms of resolution dated 13.11.2018 passed by Board of Directors, claiming amount in default amounting to the principal amount of Rs. 6,59,59,224/- (Rupees Six Crore, Fifty Nine Lakh, Fifty Nine Thousand, Two Hundred and Twenty Four only). The total default including the interest computed at the rate of 24% p.a. compounded is stated to be Rs.16,70,19,042/- (Rupees Sixteen Crores, Seventy). The date of Default as per Part-IV is stated as 12.09.2014 onwards.
3. It is the case of the Petitioner that the Corporate Debtor i.e. Vallari Trading Pvt Ltd. approached the Operational Creditor Risa International for the purchase of fabric and after a detailed due diligence with respect to the quality of product in the month of March, 2014 corporate debtor placed the order for supply of fabric and accordingly invoices were raised by the Operational Creditor (Invoices Enclosed with the application). Further between 24.4.2014 to 25.4.2014 the 30 Invoices were raised upon the corporate debtor for total amount of Rs.6,77,86,453 /-. The said supplies by the corporate debtor were duly acknowledged and never disputed the quality and quantity of goods.
4. The Corporate Debtor paid a sum of Rs. 3,01,06,677/- during the period from 23/7/2014 to 12/9/2014. No payment was made thereafter.
5. On 13.12.2018, the Operational Creditor issued notice dated 10/12/2018 U/s 8 of The Insolvency and Bankruptcy Code, 2016 claiming Rs. 16,70,19,042/- which is in default since. 12.9.2014, when the last invoice was raised for the goods supplied along with the interest calculated at the

rate of 24% per annum. However, the said notice returned back on 15/12/2018 with a remark Not Known.

6. The Corporate Debtor has neither appeared, nor filed any response to the Demand Notice or the Petition. A Court notice dated 18.09.2019 was also served on the Corporate Debtor The Corporate Debtor was served by way of substituted service in two daily newspapers on 16.12.2019.

7. We heard the Counsel and perused the material available on record.

7.1. We find that the last supply was made on 25.06.2014 and the last payment by the Corporate Debtor was made on 12.09.2014. There is no confirmation or acknowledgement of debt subsequent to that date. This Petition having filed on 18.06.2019 which is beyond the period of three years from the last date of payment i.e. 12.09.2014. The default has been claimed to have occurred on 12.09.2014 in Part-IV of the Petition and no cause has been shown for delay in filing of the petition beyond the period of three years. Accordingly, this Petition is not maintainable as barred by Limitation.

8. In view of above forgoing, this Bench is of the considered view that CP (IB)2651/2019 is deserves to be dismissed.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)