

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**IBA/898/2019**

*Under Section 9 r/w Rule 6 of the IBC, 2016*

**In the matter of H G S Dairies and Agro Limited**

**Jayapriya Fruits and Vegetables Commission Agent**

No. 54, 5<sup>th</sup> Street, Kanniyamman Nagar,  
Maduravoyal, Chennai-600095.

**---Operational Creditor**

V/s

**H G S Dairies and Agro Limited**

225 A, Vettavalam Road, 4<sup>th</sup> Street,  
Tiruvannamalai-606601.

**---Corporate Debtor**

**Order delivered on: 20.01.2020**

**Coram:**

**B. S.V. PRAKASH KUMAR, ACTING PRESIDENT**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Operational Creditor: *Shri. M. Nandhakumar, Advocate*

*Shri. Mukund Rao, Advocate*

*Shri. K. Mahalingam, Advocate*

For the Corporate Debtor : **None-Present** on the date of hearing

**ORDER**

**Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

**Order Pronounced on: 20.01.2020**

It is an Insolvency and Bankruptcy Application (in short  
"IBA") filed u/s 9 of the Insolvency & Bankruptcy Code, 2016

(hereinafter called the "Code") by M/s. Jayapriya Fruits and Vegetables Commission Agent (hereinafter referred as "Operational Creditor") for initiation of Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") against M/s. H G S Dairies and Agro Limited (hereinafter referred as "Corporate Debtor") on the ground the Corporate Debtor defaulted in paying the amount of ₹11,93,758/- with 18% interest as on 19.05.2019 as stated in the Application.

2. The learned counsel for Operational Creditor submitted that this Operational Creditor sold and supplied fruits from time to time to the Corporate Debtor for a value of ₹29,31,660 between 05.04.2017 to 31.05.2018 for which the Corporate Debtor sent monthly statements reflecting dates of procurement of fruits, amount paid and balance amount due. The Corporate Debtor made part payment of ₹19,20,000/- and the balance amount of ₹10,11,660 fell due from 01.06.2018. The Operational Creditor contacted the Corporate Debtor over phone and made attempts to visit its office constantly. This Corporate Debtor has not paid the outstanding

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debt despite Operational Creditor giving additional time to settle the dues and reminded the Corporate Debtor to pay the claim amount to the Operational Creditor. Finally, when no payment came from the Corporate Debtor, this Operational Creditor sent a demand notice through an advocate under Section 8 of Rule 5 of the Insolvency and Bankruptcy Code and the same was duly served upon the Corporate Debtor on 20.05.2019. The Corporate Debtor, till date, has not made payment towards the unpaid operational debt nor did it dispute the existence of the same as stated under the provisions of Insolvency and Bankruptcy Code, 2016.

3. On perusal of material documents placed before this Bench, it appears that the counsel appearing on behalf of the Corporate Debtor filed a memo before this Tribunal on 25.09.2019 stating that due to financial crisis for the last couple of years in their business, they could not repay the outstanding debt and prayed for two weeks' time to work out a settlement plan. Thereafter when this matter came up for hearing, none appeared on behalf of the Corporate Debtor on 21.10.2019, 05.11.2019.



4. A perusal of the date-wise Monthly Purchase and Payment Report between 05.04.2017 and 31.05.2018 by the Corporate Debtor, it is clear that the Corporate Debtor has not denied the operational debt due. We are of the view that this Operational Creditor has proved existence of debt and default. Moreover, no dispute has been raised by the Corporate Debtor before the receipt of demand notice. Therefore, this Bench is hereby to admits this Application by appointing Mr. V. Duraisamy as Interim Resolution Professional (IRP), looking at the consent letter given by him. This Operational Creditor is further directed to pay remuneration of the IRP, public announcement expenses and other expenses, if any, until constitution of CoC. Accordingly, this IBA/898/2019 is hereby **admitted** with the following directions:

- (I) That Moratorium is hereby declared prohibiting all of the following actions, 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 (SARFAESI Act);

(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.

(II) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central

Government in consultation with any financial sector regulator.

(IV) That the order of moratorium shall have effect from the date of this Order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mr. V. Duraisamy as Interim Resolution Professional, having Registration Number [IBBI/IPA-002/IP-N00609/2018-19/11862], No. 397, "Precision Plaza", 3<sup>rd</sup> Floor, Anna Salai Teynampet, Chennai-600018 E-Mail: [karurdurai.samy@gmail.com](mailto:karurdurai.samy@gmail.com), Mobile No: 9962059300** with his consent to carry the

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functions as mentioned under The Insolvency & Bankruptcy Code.

5. The Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

**-SD-**  
**(S. VIJAYARAGHAVAN)**  
**MEMBER (Technical)**  
KNP/TJS

**-SD-**  
**(B. S.V. PRAKASH KUMAR)**  
**Acting President**