

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No.297/I&BP/2018

Under section 9 of the IBC, 2016

In the matter of

Vijisan Exports Pvt. Ltd.
BW6050, B Tower, West Wing,
6th Floor, Bharat Diamond Bourse,
BandraKurla Complex, Bandra East,
Mumbai - 400051

....Applicant

v/s.

Ciemme Jewels Limited
71, MIDC, Cross Road - C,
Opp :Seepz Gate No.2,
Andheri (East),
Mumbai - 400093

....Respondent

Order delivered on: 18.04.2018

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble V. Nallasenapathy, Member (Technical)

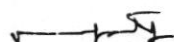
For the Petitioner : Ms. Savita Nangare, Adv.

For the Respondent:None Present.

Per:V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by Vijisan Exports Pvt. Ltd. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Ciemme Jewels Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 28.04.2015 in making payment to the extent of Rs. 1,89,76,252/- by invoking the provisions of Sections 8 and 9 of I & B Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.



2. The Petitioner is engaged in the business of Import, Export and Trading of cut & polished Diamonds. As per the instructions of Corporate Debtor, the Petitioner supplied the cut & polished Diamondson 28.03.2015 and raised invoice for Rs. 2,03,01,252/-, which is payable in 30 days. The Corporate Debtor paid Rs. 13,25,000/- only towards the said invoice, and there is a balance of Rs. 1,89,76,252/-, for which the Demand Notice was sent on 05.01.2018, the Corporate Debtor replied on 11.01.2018 saying that they are suffering in financial crisis facing bad time, hence they are unable to settle the outstanding dues for a long time and the outstanding will be paid once the revival plan which is in offing get succeeds.

3. The Petitioner filed Certificate issued by IDBI Bank as required under Section 9(3)(c) of the Code and also filed Affidavit stating that no dispute has been raised by the Corporate Debtor.

4. The Counsel for the Corporate Debtor appeared for the two hearings on 13.03.2018 and 19.03.2018, failed to appear on 03.04.2018, 05.04.2018, 13.04.2018 and 17.04.2018. Since the date of default was wrongly mentioned in the Petition the Counsel for the Petitioner was directed to rectify the defect in the Form 5 and serve a copy on the Corporate Debtor. Accordingly, the Petitioner complied with the direction and filed proof of service, however on 17.04.2018 also there was no representation on the side of the Corporate Debtor.

5. The Petitioner has mentioned Mr. VinodkumarAmbavat, Reg. No. IBBI/IPA-001-IP-P00420/2017-18/10743, having address at Room No. 40, 9/15 MorarjiVelji Bldg., 1st Floor, Dr. M. B. Velkar Street, Kalbadevi Road, Mumbai - 400002, as Interim Resolution Professional.

6. This Bench having satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section



8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring Moratorium with the directions as mentioned below:

i) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; 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 18.04.2018 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) Mr. Vinodkumar Ambavat, Reg. No. IBBI/IPA-001-IP-P00420/2017-18/10743, having address at Room No. 40, 9/15 Morarji Velji Bldg., 1st Floor, Dr. M. B. Velkar Street, Kalbadevi Road, Mumbai - 400002, as Interim Resolution Professional to



carry the functions as mentioned under Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.
8. The Registry is hereby directed to communicate this order to both the parties.

Sd/-

V. Nallasenapathy
Member (Technical)

Sd/-

Bhaskara Pantula Mohan
Member (Judicial)