

NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 20/02/2018 AT 10.30 AM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER - JUDICIAL

APPLICATION NUMBER :
PETITION NUMBER : TCP/120/(IB)/2018
NAME OF THE PETITIONER(S) : MANJEET COTTON PVT LTD
NAME OF THE RESPONDENT(S) : SUBBURAJ COTSPIN MILLS PVT LTD
UNDER SECTION : 9 RULE 6

| S.No. | NAME (IN CAPITAL) | DESIGNATION | SIGNATURE |
|-------|-------------------|-------------|-----------|
|-------|-------------------|-------------|-----------|

REPRESENTATION BY WHOM

1) Sandeep Kumar
Rajwan Jhabalkh
RAHUL TOITA

For Applicants
Operational
Creditor


J.P. Y

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

CP/120/(IB)/CB/2018

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

In the matter of

M/s. Manjeet Cotton Private Limited

...Operational Creditor

Vs.

M/s. Subburaj Cotspin Mills Private Limited

...Corporate Debtor

Order delivered on 20th of March, 2018

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

*For Operational Creditor(s) : Mr. Sandeep Kumar,
Pawan Jhabakh and Rahul Tolta, Counsel*

For Corporate Debtor (s) : Remained ex-parte

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP/120/(IB)/CB/2018 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w Rule 6 of the

Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. It is on record that before filing the Application, notice was sent to the registered office of the Corporate Debtor that was served. The matter got listed on 16.02.2018 but there was no representation on behalf of the Corporate Debtor. In order to make compliance with the principles of natural justice, this Adjudicating Authority vide Order dated 16.02.2018 directed the Operational Creditor to serve private notice on Corporate Debtor. On 02.03.2018, a direction was given to the Counsel for the Operational Creditor to file an affidavit along with proof of service effected on the Corporate Debtor. Accordingly, an Affidavit along with the proof of delivery of notice to the registered office

address was filed, based on which, the Corporate Debtor was proceeded *ex-parte* on 07.03.2018.

3. Heard the Counsel for the Operational Creditor and perused the record.

The Operational Creditor has claimed an outstanding debt to the tune of Rs.79,92,341/- including the interest as outstanding debt against the Corporate Debtor.

The brief facts of the case are that the Corporate Debtor had approached the Operational Creditor for providing cotton bales. As per the demand of the Corporate Debtor, the cotton bales were supplied by the Operational Creditor for which the Invoices were raised by it. The Operational Creditor has supported the Application along with the Invoices which are placed at pages 23 to 25 of the typed set filed with the Application. The Corporate Debtor has made part payments but, failed to make the balance payment to the Operational Creditor.

4. The Operational Creditor issued a Demand Notice dated 05.07.2017 under Section 8(1) of the I&B Code, 2016, to the Corporate Debtor which is placed at pages 20 to 23 of the typed set filed with the Application, which provides the details of the outstanding debt, interest thereon and details of Invoices, to which the Corporate Debtor has not sent any reply.

5. The Counsel for the Operational Creditor has also referred to the balance sheet for the year ending 31.05.2016 filed by the Corporate Debtor that reflects Rs.53,573,132/- as Trade Payables under the head "Current Liabilities", copy of which is placed at page 72 of the typed set filed with the Application

6. The Operational Creditor has complied with Section 9 (3)(b) & (c) of the I&B Code, 2016, by filing Affidavit, which is placed at pages 6 to 8 of the typed set filed with the Application, wherein, under para 5, it has been deposed that the Operational Creditor has not received any notice of dispute regarding the

pending amount from the Corporate Debtor. The Bank certificate issued by the Axis Bank dated 22.08.2017 has also been placed on record which is placed at page 81 of the typed set filed with the Application.

7. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Authority is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, CP/120/(IB)/CB/2018 is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

8. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code.

2016. It is ordered to prohibit 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - (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.
9. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended

or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

10. The Operational Creditor has not proposed the name of IRP, therefore, Mr. Tharuvai Ramachandran Ravichandran is appointed as IRP, whose name appears in the Panel of Insolvency Professionals recommended by the IBBI. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person

associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the I&B Code, 2016.

12. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.

13. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

The e-mail and other details of the IRP are as follows: -

Mr. Tharuvai Ramachandran Ravichandran,
Regn No: IBBI/IPA-002/IP-N00241/2017-18/10692
Email: trravichandran@yahoo.com
Mobile No: 9884070424 

14. Order^{is} dictated and pronounced in open court in the presence of the Counsel for the Operational Creditor.

P. ATHISTAMANI


[CH.MOHD SHARIEF TARIQ]
MEMBER (Judicial)