

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

IB No. 656(ND)/2018
TA No. 68/2018

CORAM: SHRI R. VARADHANRAJAN, MEMBER (JUDICIAL)

IN THE MATTER OF SECTION 9 of IBC, 2016

IN THE MATTER OF:

**Natroyal Industries Pvt. Ltd.
60 CD, "Shlok" Govt. Industrial Estate,
Charkop, Kandivali West,
Mumbai (Maharashtra)- 400067**

...Applicant/ Operational Creditor

VERSUS

**Siddhi Vinayak Polymer Pvt. Ltd. (SVPPL)
G-1/72, Road No. 14P,
VKI Area (Extrn) Badarana,
Jaipur (Rajasthan)- 302013**

...Respondent/ Corporate Debtor

For Petitioner (s)	:	Anirudh S., Adv.
For Respondent(s)	:	None- Appeared



ORDER
(as Dictated in Open Court)

DATE : 25.10.2018

This is an application which has been filed by the Operational Creditor namely, Natroyal Industries Pvt. Ltd. against the Corporate Debtor M/s Siddhi Vinayak Polymer Pvt. Ltd. based on a claim of Rs. 77,37,705/- as on date of filing this petition i.e. 01.06.2018 and the claim arising out of the supply of leather clothes based on the requisition of Corporate Debtor from time to time. The details of invoices, namely, unpaid invoices leading to the claim has been given in page No. 33 of the typed set of the documents filed along with the application indicating the sum of Rs. 57,82,974/-. Further based on the terms contained in invoices, interest for delayed payment has also been charged at the rate of 24% p.a. which aggregates to a sum of Rs. 11,26,440/- at page No. 32 read with page No. 34 of the typed set. It is also seen that since the sale as between the parties is by way of inter-State sales, in the absence of production of C- Forms subject to which the tax is to be limited and due to its non-production, the difference is also claimed which aggregates to a sum of Rs. 8,28,030/-. The aggregate of individual components of the above amounts to the claim of Rs. 77,37,715/-. It is also brought to the notice of this Tribunal that prior to the issue of Section -8 notice under the provisions of IBC, 2016, the Corporate Debtor had also issued cheques in relation to the unpaid invoices, the details of which have been furnished on page No. 186 and that the cheques which have been issued for payment towards

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the unpaid invoices have also been dishonored by the Corporate Debtor in view of insufficiency of funds. Consequently, it is represented that notice under Section-8 of IBC, 2016 was also issued on 01.12.2017 to the Corporate Debtor at its registered office. However, the petitioner has not been successful in serving the Section-8 notice through post and in any case, it is represented by the petitioner that as provided under Rule-5 of IBBI (Application to Adjudicating Authority) Rules, 2016, Section-8 notice has been duly served upon the directors of the company by e-mail which is evidenced from Page No. 26 of the typed set of application. An affidavit under Section 9(3)(b) of IBC, 2016 has also been filed along with the typed set wherein it is stated that no notice of dispute has been received from the Corporate Debtor as envisaged under the provisions of IBC, 2016 and that in the circumstances, this petition has been preferred seeking for the initiation of Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor.

It is also seen from the application that the petitioner has named one Mr. Sanjay Kumar Aggarwal having registration No. IBBI/IPA-002/IP-N00438/2017-2018/11290 as the Interim Resolution Professional. Pursuant to the filing of the petition it is seen from the record of the proceedings of this Tribunal that despite notice of the application to the Corporate Debtor, the Corporate Debtor had failed to put in its appearance to defend its cause and in the

circumstances vide order dated 27.09.2018, this Tribunal was constrained to proceed with the matter in the absence of the Corporate Debtor.

Learned counsel for the petitioner took us through the documents as referred to above and also insisted that the CIRP Process should be initiated under the facts and circumstances of the case. Based on the records furnished along with application and also taking into consideration the averments in the Application we find that there is a debt due to the Operational Creditor, namely, the petitioner from the Corporate Debtor/ Respondent and that there has been default which has been committed by the Corporate Debtor in relation to the said debt. It is also seen that Section-8 notice through email has been duly served upon the Corporate Debtor to which neither there has been a reply nor any payment has been made by the Corporate Debtor which is evidenced from the affidavit as filed by the Operational Creditor under Section 9(3)(b) of IBC, 2016. Thus, this Tribunal finds that it is a fit case to admit the petition and to appoint the IRP, namely, Mr. Sanjay Kumar Aggarwal particulars of which have been given above. Moratorium as envisaged under Section 14 of IBC, 2016 will follow upon admission of this petition. The Board of Directors of Corporate Debtor shall stand suspended as envisaged under the provision of Section 17 of IBC, 2016. IRP appointed by this Tribunal as proposed by the Operational Creditor will take charge of the affairs of the Corporate Debtor upon receipt of this order and discharge all the functions as contemplated under the provisions of the IBC, 2016.



A copy of this order shall be duly communicated to the Operational Creditor, Corporate Debtor as well as to IRP named as above. For the records of IBBI, the registry to forward a copy of this order to IBBI.

In the above circumstances this petition stands admitted.

Sd—

(R. Varadharajan)
Member (Judicial)