

IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI

CP/738/(IB)/CB/2018

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of

M/s. Jotun India Private Limited

... Operational Creditor

Vs.

M/s. Tebma Shipyard Limited

... Corporate Debtor

Order delivered on 25th of September, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Operational Creditor(s) : Mr. Afreen Azad
for M/s. Fox Mandal & Associates, Counsel

For Corporate Debtor (s) : Mr. Ramalingam. VA, Counsel

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J):

1. Under Adjudication is CP/738/(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 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. Heard the Counsels for the Operational Creditor and the Corporate Debtor, and perused the pleadings placed on the case file.

3. The Operational Creditor has claimed an outstanding debt to the tune of Rs.23,69,536/- ~~which~~ includes^{ing} interest as on 16.03.2018.

4. The case of the Operational Creditor is that as per the demand made by the Corporate Debtor, the Operational Creditor has sold, supplied and delivered the materials *inter-alia*, paints and coatings to the Corporate Debtor. After the delivery of materials, the



Operational Creditor has raised Invoices, the list of Invoices is placed at page 65, and Invoices are placed at pages 22, 25, 28, 32, 35, 38, 41, 46, 50 and 53 of the typed set filed with the Application.

5. The Operational Creditor has sent a Demand Notice dated 16.03.2018 under Section 8 of the I&B Code, 2016 to the Corporate Debtor wherein the details of the amount claimed; the details of transaction on account of which debt fell due, and the date of default are being mentioned in the notice which has been delivered on 22.03.2018, copy of which is placed at pages 57 to 65 of the typed set filed with the Application. The track delivery record is placed at page 66 of the typed set filed with the Application to which no reply was given by the Corporate Debtor.

6. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016, by filing Affidavit placed at pages 14 & 15 of the typed set filed with the Application, wherein under Para 4, it has been deposed that no notice has been received from



the Corporate Debtor with regard to existence of a dispute or a pendency of a suit or arbitration proceedings. The Certificate issued by the authorised signatory of the Operational Creditor, and the details of the Bank transactions are placed at pages 70 and 71 of the typed set filed with the Application.

7. The Counsel for the Corporate Debtor has not opposed the Application and the outstanding amount claimed by the Operational Creditor.

8. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Bench is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, CP/738/(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.



9. The moratorium is declared which shall have effect from the date of this Order till the completion of the 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.

10. 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.

11. The Operational Creditor has not proposed the name of IRP and therefore, Mr. N.Kumar 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 shall file the declaration disclosure statement in the Registry of NCLT, Chennai Bench, within two working days from the date of the receipt of this Order. 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.

12. 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.

13. 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.



14. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. The E-mail ID and other details of the IRP are as follows: -

Mr. N.Kumar,

Reg. No: IBBI/IPA-001/IP-P00724/2017-18/11254

Email Id: naraykumar71@rediffmail.com

Mobile No: 99524 18350

15. Order is dictated and pronounced in the open Court in presence of the Counsels for the Operational Creditor and the Corporate Debtor.

[CH.MOHD SHARIEF TARIQ]
MEMBER (Judicial)

P. ATHISTAMANI



Certified to be True Copy

G. Sagar
27/9/18
DEPUTY REGISTRAR
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