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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 18.02.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.593/9/HDB/2018
NAME OF THE COMPANY	Yag Mag Labs,Pvt Ltd
NAME OF THE PETITIONER(S)	Cosmic Chemicals
NAME OF THE RESPONDENT(S)	Yag Mag Labs Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
G. S. Jagannath	Advocate	vomicprojects@gmail.com 8247253245	G. S. Jagannath

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
D. Narendar Alaik	Adv.	9849387366	
Vikram. C. puttapaga	Adv.	9160876539	Vikram

ORDER

Petition admitted vide separate orders.

Member (J)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 593/9/HDB/2018
U/s 9 of IBC, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of

M/s. Cosmic Chemicals
Reg Off: No. 12, Veena Apartments,
Opp. Bhagwati Hospital,
S. V. P. Road, Borivili WEST,
Mumbai,
Maharashtra-400103.

...Operational Creditor

VERSUS

M/s. Yag Mag Labs Private Limited
Reg Off: Plot No.7, Flat No. 301,
Veera Palace, Beside Andhra Bank,
Sunder Nagar, Near ESI,
Hyderabad- 500 038.

...Corporate Debtor

Date of order: 18.02.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / counsels present:

For the Petitioner: Mr. G. S. Jagannath, Advocate

For the Respondent: Mr. D. Narendar Naik, Advocate
Mr. Vikram C. Puttapaga, Advocate.

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 23.10.2018, 15.11.2018, 12.12.2018, 07.01.2019,
28.01.2019, 07.02.2019.

ORDER

1. This petition is filed by the Operational Creditor M/s. Cosmic Chemicals that, Yag Mag Labs Private Limited, Corporate Debtor herein had defaulted in repaying an amount of Rs. 32,02,543/-, and hence this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by Operational Creditor to initiate Corporate Insolvency Resolution Process, under the Insolvency and Bankruptcy Code, 2016.

2. Averments in Brief:

A. It is averred that operational Creditor M/s. Cosmic Chemicals is a partnership firm Registered with Directorate of Industries State of Maharashtra, as a MSME unit, engaged in the manufacture of Chemicals like Metallic Salts.

B. It is averred that corporate debtor had been doing business with the operational creditor since 2015. During the course of business transactions, corporate debtor had raised purchase orders. The Details of the Purchase orders are given below:

S.No	Date	Purchase Order	Amount
1	29.04.2015	RM/035/2015-16	Rs. 9,75,375/-
2	25.06.2015	RM/091/2015-16	Rs.11,70,450/-
3	15.09.2015	RM/151/2015-16	Rs.13,87,200/-
4	07.11.2015	RM/215/2015-16	Rs.13,87,200/-

C. It is averred that the total amount of purchase orders was Rs.49,20,225/- for the supply of magnesium Nitrate, with payment conditions as 75 days. It is averred that the



operational creditor had supplied magnesium Nitrate as demanded by the corporate debtor's specifications and as per the corporate debtor satisfaction for an amount of Rs. 33,16,275/- in which the payment has not been received from the corporate debtor.

D. It is averred that the operational creditor raised invoices after supplying the materials for which corporate debtor had also acknowledged the same and in which it is not disputed till date. The details of the invoices are:

S.No	Date	Invoice Number	Invoice Amount
1	18.06.2016	107	1,95,075
2	01.07.2015	123	1,95,075
3	09.07.2015	132	1,95,075
4	23.07.2015	151	1,95,075
5	28.07.2015	157	3,51,135
6	12.09.2015	214	2,34,090
7	16.09.2015	216	1,95,075
8	28.09.2015	223	3,51,135
9	20.10.2015	256	3,51,135
10	07.11.2015	288	3,51,135
11	24.11.2015	300	3,51,135
12	20.12.2015	335	3,51,135

E. It is averred that when the demand was made by the operational creditor and in turn the corporate debtor paid part amount of Rs. 1,13,732/- for the materials supplied. The total outstanding balance is Rs.32,02,543/- being the principle amount for the material supplied to the corporate debtor.

F. It is averred that despite demands made by the operational creditor for clearing the dues the corporate debtor approached the Micro and Small Enterprises Facilitation Council ,Konkan for a claim under section 16,17,&18 of the MSME Act, 2016 on 13.05.2016. The

council Registered the claim and held conciliation and later called in for arbitration and finally passed an order dated 23.05.2018 directing the corporate debtor to pay Rs. 32,02,543/- along with interest as per section 16 of the MSME Act, 2006. It is averred that on receipt of the order which has now become decree the corporate debtor avoided payment. The act of corporate debtor to avoid payments resulted in operational debt.

G. It is averred that due to non-compliance of demand notice which shows the default committed by corporate debtor to pay debts and operational creditor approached the Tribunal under IBC code 2016 to take cognizance of the company petition there by admit and adjudicate the Company Petition as per law.

3. I have seen the record. The notice was sent to the Corporate Debtor vide its order dated 23.10.2018 which is directed by the Tribunal to the Operational Creditor. I have also seen the Demand Notice issued to the Corporate Debtor. There was no reply to the Demand Notice. Corporate Debtor did not raise any dispute.
4. The Operational Creditor filed Form-3 and 4. It is clear from the record that Operational Creditor issued Demand Notice/ Invoices. The operational creditor also filed order dated 23.05.2018 passed by Micro and Small Enterprises Facilitation Council. The Operational Creditor also filed postal receipts evidencing the dispatch of demand notice. The Operational Creditor also filed copy
5. Bank Account statement (State Bank of India) Thus, Operational Creditor filed documentary proof in support of the




claim and also placed evidence that Corporate Debtor committed default. Therefore, petition is liable to be admitted.

6. The Operational Creditor proposes the name of Mr. Ram Murthy Kommera, as Interim Resolution Professional. The proposed IRP has given written consent in Form-2 vide memo. He has also certified there are no disciplinary proceedings pending against him either with the Board or ICSI. He has enclosed certificate of Registration.
7. The Adjudicating Authority is satisfied that the Corporate Debtor failed to discharge its liability mentioned in the Petition filed by the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC), resulting occurrence of default for an amount of Rs.32,02,543/-.
8. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-
 - (a) The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where



such property is occupied by or in possession of the corporate Debtor;

- (b) 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.
 - (c) 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.
 - (d) That the order of moratorium shall have effect from 18.02.2019 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, whichever is earlier.
 - (e) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.
 - (f) That this Bench hereby appoints Mr. Ram Murthy Kommera, having registration number IBBI/IPA-002/IP-N00595/2017-18/11776 residing at Plot No.143, H.No.8-19, Metro City Mega Township, Bongulooru, Post&Village:MP Patelguda, Ibrahim,Hyderabad as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.
- Accordingly, this Petition is admitted.


18.2.19.
(RATAKONDA MURALI)
MEMBER (JUDICIAL)