

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH

C.P. (I.B) No. 132/9/NCLT/AHM/2018

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2019**

Name of the Company: Shree Agencies
V/s.
Kataria Packing Pvt Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.				
2.				

ORDER

None appeared for the Petitioner.

The case is fixed today for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

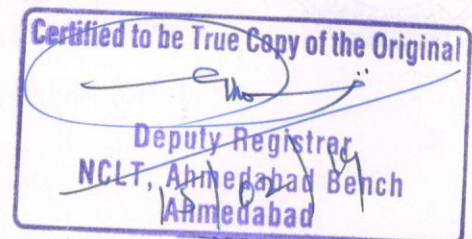
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MANORAMA KUMARI
MEMBER (JUDICIAL)

Harihar Prakash Chaturvedi
HARIHAR PRAKASH CHATURVEDI
MEMBER (JUDICIAL)

dated this the 6th February, 2019.



VS



**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 132/9/NCLT/AHM/2018

In the matter of:

M/s. Shree Agencies
117, Laxmi Plaza
Laxmi Industrial Estate
New Link Road, Andheri (W)
MUMBAI 400 053.

Applicant
[Operational Creditor]

Versus

M/s. Kataria Packaging Private Limited
68-A. Industrial Area,
Ratlam 457 001 (M.P.)

Respondent
[Corporate Debtor]

Order delivered on 06th February, 2019

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J)

Appearance:

Advocate Mr. Rohan Lavkumar Dave is present for operational creditor/ petitioner

ORDER

(Per: Hon'ble Ms. Manorama Kumari, Member (J))

1. M/s. Shree Agencies, a partnership firm, through its partner, filed this Application with a prayer for initiation of corporate insolvency resolution process against M/s. Kataria Packaging Private Ltd., under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"].

2. That the applicant/operational creditor is a partnership firm, having identification number 162656, having registered office at 117, Laxmi Plaza, Laxmi Industrial Estate, Link Road, Andheri (W), Mumbai 400 053 and engaged in the



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supply Kraft paper and duplex board used in packaging industry.

3. That the respondent/corporate debtor is a private limited company registered under the Companies Act, 1956, incorporated on 30.08.2001, having identification No. U25202MP2001PTC014797 and having registered office at 68-A, Industrial Area, Ratlam 457 001 (M.P.) Authorised share capital of the respondent company is Rs. 2,20,00,000/- and paid up share capital is Rs. 2,18,76,300/-
4. That, the applicant firm sold and supplied Kraft Paper and duplex Board to the Respondent company on demand. That, the following are the details of bills raised by the applicant, payment made by the respondent and amount outstanding against the goods supplied by the applicant to the respondent company from 02.07.2016 to 17.10.2017.

Bill No.	Date	Amount
0933/S17	02.07.2016	3,24,643.00
1071/S17	18.07.2016	5,97,263.00
1315/S17	18.08.2017	6,22,778.00
1594/S18	21.09.2017	4,25,023.00
1637/S18	24.09.2017	4,47,648.00
1839/S18	12.10.2017	4,20,930.00
1097/S18	17.10.2017	5,34,027.00
TOTAL OUTSTANDING (A)		33,72,312.00
Part payment made on 19.09.2017 against bill No. 0933/S17 dated 02.07.2016		1,87,079.00
Part payment made on 13.10.2017 against bill No. 1071/S17 dated 18.07.2016		2,40,938.00
TOTAL PART PAYMENT (B)		4,28,017.00
TOTAL OUTSTANDING (A-B=C)		29,44,295.00
TOTAL INTEREST (D)		6,38,353.00
TOTAL DEBT DUE (ADD BALANCE OUTSTANDING AND INTEREST (C+D))		35,82,648.00

(Rupees thirty-five lacs eighty-two thousand six hundred forty-eight only)



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5. That, the applicant also relied upon the following documents to substantiate his claim: -

Sr. No.	Particulars	Page No.
01	Form - 5	1-18
02	Letter of authority dated 19.02.2018 for appointing advocate to file the application	19
03	Copy of demand notice dated 21.02.2018	20-27
04	Tracking details of demand notice dated 21.02.2018	28-29
05	Letter of authority dated 12.02.2018 for issuance of demand notice	22-23
06	Copy of invoices	33-44
07	Copy of ledger accounts of the applicant	47-50
08	Copy of master data of the applicant	85-90
09	Copy of master data of the respondent	91
10	Copy of bank statement for the period 1 st July, 2016 to 28 th February, 2018	201-243
11	Copy of Chartered Accountant Certificate	246-247
12	Affidavit in support of the application	248-250
13	Affidavit of no dispute	251-252

6. That, the additional affidavit filed by the applicant dated 29.11.2018 inter alia states that on 3rd May, 2018 both the parties had entered into consent terms for payment of outstanding amount of Rs. 29,44,295/- in a phased manner from 20.05.2018 to 11.07.2018 and had issued seven cheques totally amounting to Rs. 29,44,295/-. It is also stated in the additional affidavit that out of the seven cheques, only three cheques worth Rs. 9,41,537/- deposited in the bank have been honoured, but all the remaining cheques have been returned/dishonoured with the remark "insufficient funds". It is further submitted that the fact of dishonoured cheques have also been informed to the corporate debtor but the respondent never made any effort to keep the sanctity of the consent terms. Finding no alternative, the applicant has to prefer the instant application under section 9 of IBC.



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7. Perused the application and the documents annexed thereto. It is observed that despite issuance of notice by the Registry and giving number of opportunities, none remained present on behalf of the respondent whenever the matter was listed and no reply has been filed by the respondents. On perusal of the record it is found that service upon the corporate debtor is complete where the corporate debtor informed the date of hearing. Hence the matter is heard in absence of the corporate debtor.
8. There is no dispute in the case that the petitioner is the financial creditor. More so when the corporate debtor has not raised any objection regarding the overdue payable to the applicant. Further, it is an admitted fact that the corporate debtor had issued cheques towards the amount due to the applicant, however the same was dishonoured.
9. Further, on perusal of the documents filed by the operational creditor it is evident that the corporate debtor defaulted in making payments as mentioned above. The petition filed under Section 8 & 9 of IB code is complete in all respects.
10. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
 - (i) 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;

- (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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);
- (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

11. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.

12. The order of moratorium shall have effect from the date of receipt of authenticated copy of this order 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.



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13. This Adjudicating Authority is appointing Mr. Arvind Gaudana, who has shown his address at 307, Ashirvad Paras, Nr. Prahladnagar Garden, Corporate Road, Prahladnagar, Satellite, Ahmedabad 380 015 having Registration Number IBBI/IPA-002/IP-N00283/2017-18/10841, as 'Interim Insolvency Resolution Professional under Section 13(1) of the Code. This Adjudicating Authority directs the Insolvency Resolution Professional to make public announcement of initiation of Corporate Insolvency Process and calls for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.
14. This Petition stands disposed of accordingly with no order as to costs.
15. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.

Arvind
Ms. Manorama Kumari
Member (Judicial)
Adjudicating Authority

Harihar
Harihar Prakash Chaturvedi
Member (Judicial)
Adjudicating Authority

