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**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 205/9/NCLT/AHM/2017


Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, 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 13.02.2018**

Name of the Company: Kaushar Gems.
V/s.
J R Diamond Pvt Ltd.

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

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.	PRIYANK DAVE FOR JAMIN DAVE	ADV.	PETITIONER	
2.				

ORDER

Learned Advocate Mr. Priyank Dave i/b Learned Advocate Mr. Jaimin Dave present for Operational Creditor/Petitioner. None present for Respondent.

Order pronounced in open court. Vide separate sheets.


**MANORAMA KUMARI
MEMBER JUDICIAL**


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 13th day of February, 2018.

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

C.P. No.(IB) 205/9/NCLT/AHM/2017

In the matter of:

M/s. Kaushar Gems
Proprietary Firm of Ramesh K.
Doshi (HUF)
Registered Office at
205, Shree Parshwanath Complex,
Behind Sahastraphana
Parshwanath Dehrasar,
Subhash Chowk, Gopipura,
Surat-395007
Through its Authorised Representative
Mr. Kaushik R. Doshi (Karta).

: Petitioner.
[Operational Creditor].

Verus

J.R. Diamonds Private Limited
Registered Office at
Ashoka Tower, Kesharva Market-2,
Gotalawadi, Katargam,
Surat-395004, Gujarat.

: Respondent.
[Corporate Debtor].

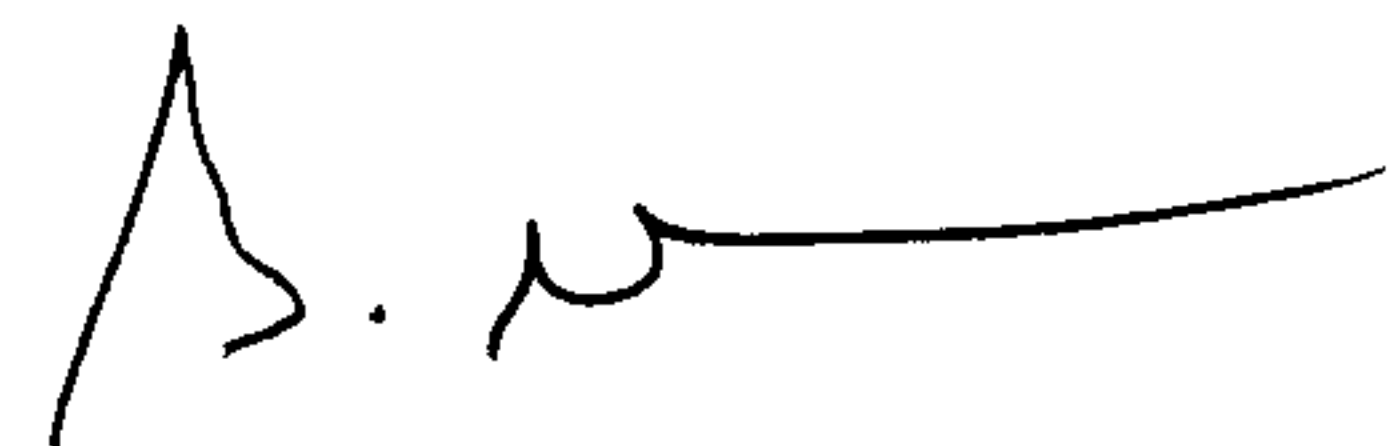
Order delivered on 13th February, 2018.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J) – And -
Hon'ble Ms. Manorama Kumari, Member (J).**

Appearance:

Mr. Jaimin Dave, with Mr. Priyank Dave, learned Advocate for the
Petitioner.

None present for Respondent.

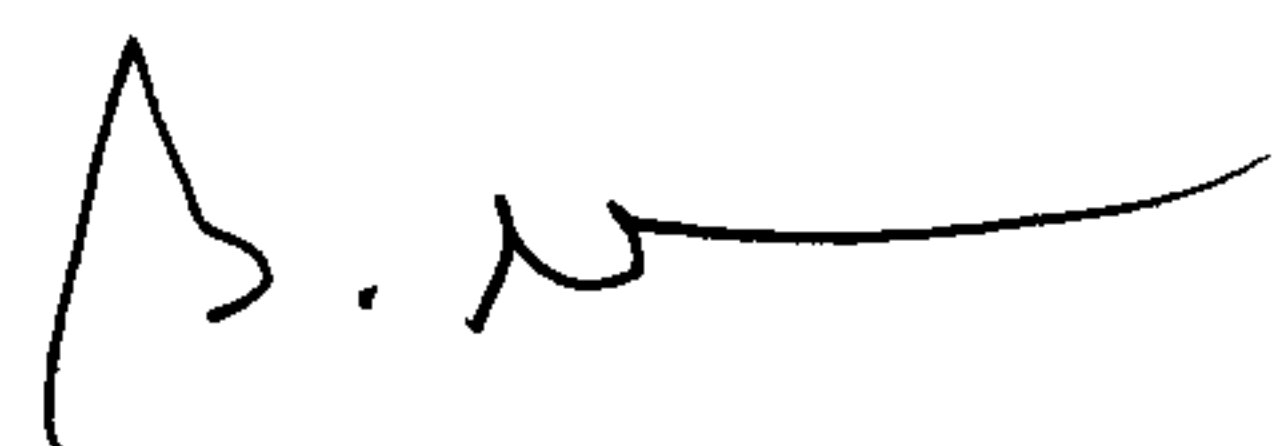


ORDER**[Per: Hon'ble Sri Bikki Raveendra Babu, Member (J)]**

1. M/s. Kaushar Gems, Through its Proprietor Shri Kaushik R. Doshi, Karta of Ramesh K. Doshi (HUF), filed this Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ["Code" for short] read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, ["Rules" for short] with a request to trigger Corporate Insolvency Resolution Process in respect of M/s. J.R. Diamonds Private Limited styling it as 'Corporate Debtor'.

2. J.R. Diamonds Private Limited is a Body Corporate constituted under the Companies Act, 1956 having its Registered Office at Surat. The Company is engaged in the business of manufacturing necklaces. The Respondent Company is in requirement of labourers/craftsmen for cutting and polishing diamonds. Petitioner is engaged in the business of providing labour services for cutting and polishing diamonds. Respondent approached the Petitioner for providing service in the nature of labour work for polishing and cutting rough diamonds.

3. Between the financial year 2012-2013, Petitioner provided services for polishing and cutting rough diamonds from time to time at the request of the Respondent. The details of the Invoices raised by the Petitioner are as under;



Date of Invoice	Gross Amount	TDS	Amount Receivable After TDS (in Rs.)
25.02.2013	141933	1419	140514
26.02.2013	155493	1555	153938
04.03.2013	153233	1532	151701
16.03.2013	58718	587	58131
17.03.2013	68645	686	67959
18.03.2013	86160	862	85298
25.03.2013	86418	864	85554
26.03.2013	112683	1127	111556
TOTAL	863283	8633	854650

Respondent acknowledged the amount and deducted the tax also and issued Income Tax Certificate (TDS Certificate). Respondent is liable to pay an amount of Rs. 8,63,283/-. Out of it, Respondent paid Rs. 3,40,000 after repeated demands and legal notices. Respondent acknowledged the debt and confirmed the Ledger Balances for the years 2012-13 to 2016-17.

4. Petitioner issued Demand Notice under Section 8 of the Code read with Rule 5 of the Rules on 11.9.2017 calling upon the Respondent to pay Rs. 5,14,650/- within 10 days from the date of notice. The Demand Notice was served on the Respondent on 7.10.2017.

5. Respondent having received the Notice did not choose to make payment and did not choose to give reply. It is stated by the Petitioner that Respondent not only owe money to the Petitioner but also to several other persons and it was unable to clear the debts. It is further stated that the claim of the Petitioner is in respect of the

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claim for services provided to the Respondent Company from time to time and therefore the debt due to the Petitioner from the Respondent is an operational debt and the petitioner is an 'Operational Creditor'. It is also stated that the Respondent committed default in payment of the operational debt. The Petitioner proposed the name of Mr. Vinod Tarachand Agrawal as Interim Resolution Professional.

6. Petitioner served a copy of the Petition to the Respondent. Petitioner also served notice of date of hearing on the Respondent. In spite of service of notice Respondent did not choose to appear and file objections.

7. Heard arguments of learned counsel appearing for the Petitioner.

8. The Petitioner filed copies of Invoices and copies of TDS Certificate and copy of Ledger Confirmation supplied by the Respondent Company to establish that an amount of Rs. 5,14,650/- is due from the Respondent during the period between 25.2.2013 to 26.3.2013.

9. Petitioner issued Demand Notice as required by Section 8 of the Code read with Rule 5 of the Rules in Form-3 and the same was served on the Respondent. The Respondent did not choose to give any reply to the Petitioner. Petitioner also filed Bank Statements and the Certificate issued by the financial institution. Petitioner filed


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Form-2 Written Communication given by the proposed Insolvency Resolution Professional. Petitioner also filed Affidavit in support of the Petition. Therefore, the Petition is complete in all respects.

10. The amount claimed by the Petitioner from the Respondent is in respect of provision of services made to the Respondent Company from time to time. Therefore, Petitioner is an Operational Creditor. The documents filed by the Petitioner and the confirmation of balance by the Respondent show that the amount claimed in this Petition is due and payable by the Respondent to the Petitioner. The material on record also show that there is occurrence of default in payment of operational debt by the Respondent to the Petitioner. No dispute of dispute given to Respondent. No pre-existing brought on Record.

11. In view of the above discussion, this Petition is admitted under Section 10(4)(a) of the Code.

12. This Adjudicating Authority hereby appoint, Mr. Vinod Tarachand Agrawal as 'Interim Insolvency Resolution Professional' having address at 204, Wall Street-1, Opp: Orient Club, Nr. Gujarat College, Ellisbridge, Ahmedabad-380006 with Registration No. IBBI/IPA-001/IPP00641/2017-18/11090, under Section 13(1)(c) of the Code.

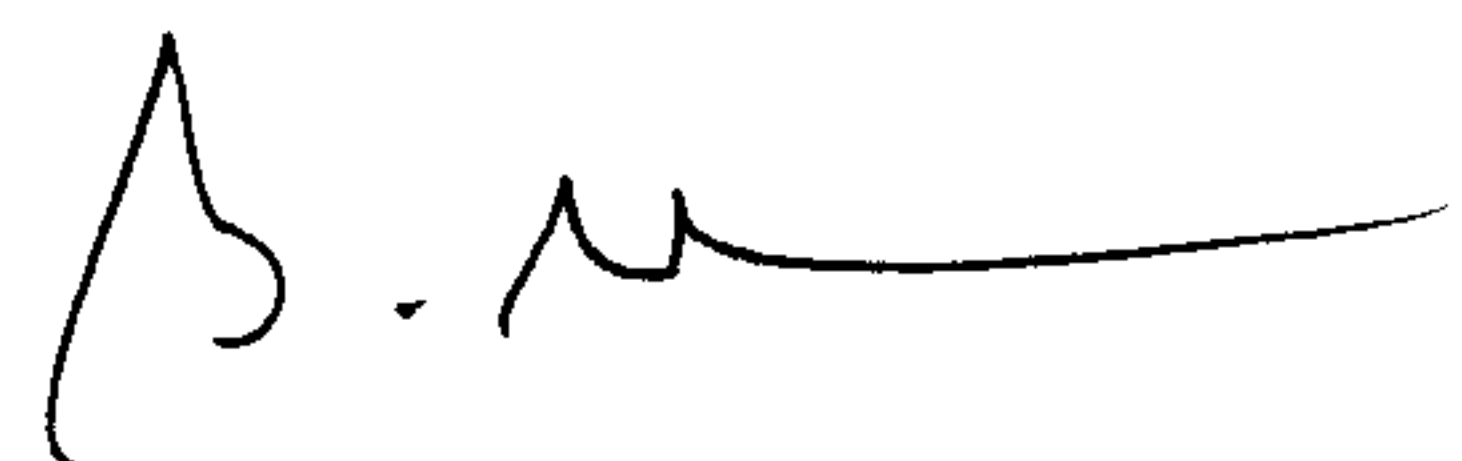
13. The Interim Insolvency Resolution Professional is hereby directed to cause a public announcement of the initiation of

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'Corporate Insolvency Resolution Process' and call for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

14. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (a) the institution of suits or continuation of pending suits or proceedings against the Company/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 Company/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 Company/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 Company/corporate debtor.



- (i) There shall not be any interruption, suspension or termination of supply of essential goods or services to the Corporate Debtor during the moratorium period.
 - (ii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.
 - (iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.
15. This Application is disposed of accordingly. No order as to costs.
16. Communicate a copy of this order to the Operational Creditor and to the Respondent Corporate Debtor, and to the Interim Insolvency Resolution Professional.

Signature:



**Ms. Manorama Kumari,
Member (Judicial)
Adjudicating Authority.**

Signature:



**Sri Bikki Raveendra Babu,
Member (Judicial)
Adjudicating Authority.**