

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

C.P. (I.B) No. 62/10/NCLT/AHM/2017


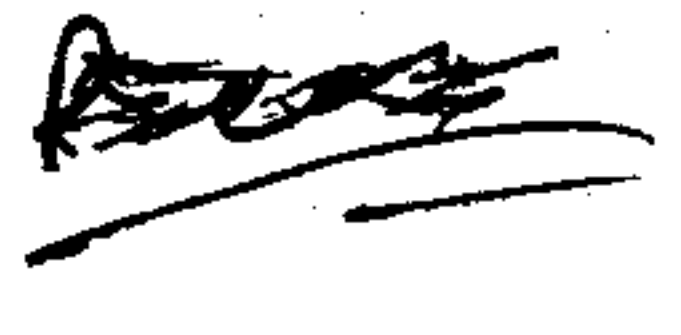
Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.08.2017**

Name of the Company: ShambugarValgar Goswami  
Director, Well Pack Paper & Containers Ltd.  
V/s.  
K.Z. Leasing & Finance Ltd.

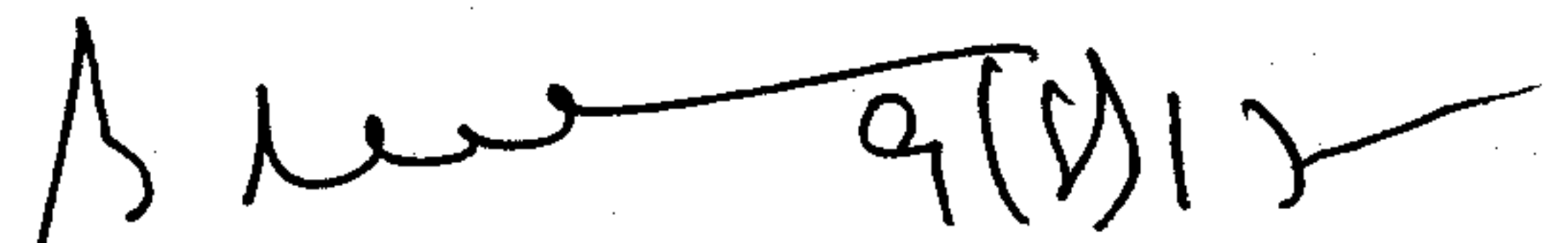
Section of the Companies Act: Section 10 of the Insolvency and Bankruptcy  
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Ishan P. Shah	Advocate	Petitioner	
2.	PAVAN GODIAWALA	Advocate	Petitioner	

**ORDER**

Learned Advocate Mr. Pavan Godiawala with Learned Advocate Mr. Ishan Shah present for Corporate Debtor/ Applicant. None present for Respondent.

Order pronounced in open Court. Vide separate sheet.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 9th day of August, 2017.

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

**C.P. No.(I.B) 62/10/NCLT/AHM/2017**

**In the matter of:**

Shambugar Valgar Goswami

Director

M/s. Well Pack Papers and Containers Ltd.,

51, Dahayabhai Park,

Near Telephone Exchange

Kankaria

Ahmedabad-380022

: Corporate Applicant.

Versus

1. M/s. K.Z. Leasing & Finance Ltd.,  
1<sup>st</sup> Floor, Deshna Chambers,  
B/h. Kadva Patidar Vadi,  
Usmanpura,  
Ahmedabad-380014

2. M/s. Panel Décor Private Limited  
20, Mahakant Complex,  
Opp: V.S. Hospital,  
Ellisbridge,  
Ahmedabad-380006

3. Tejal Paper Mills (P) Limited  
33, Swapnasidhh Housing Soc.Ltd.,  
Opp: Agrawal Tower,  
Ghatlodia,  
Ahmedabad-380014

: Financial Creditors.

Order delivered on 9<sup>th</sup> August, 2017.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).**

**Appearance:**

Shri Pavan Godiawala with Shri Ishan Shah, learned Advocates for the Corporate Applicant.

None present for Financial Creditors.

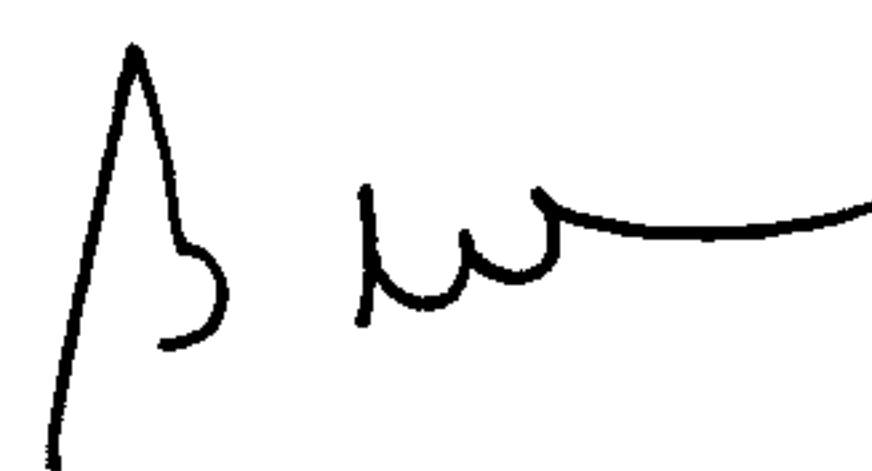
**ORDER**

1. One of the Directors of M/s. Well Pack Papers and Containers Limited filed this Application under Section 10 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the IB Code"] read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ["Adjudicating Rules" for short], to initiate Corporate Insolvency Resolution Process in respect of M/s. Well Pack Papers and Containers Limited ["the Company" for short]

2. The Board of Directors of the Company has passed a Resolution on 21.6.2017 to file an Application under Section 10 of the IB Code read with Rule 7 of the Adjudication Rules to initiate Corporate Insolvency Resolution Process before National Company Law Tribunal, Ahmedabad Bench and authorised Mr. Shambugar Valgar Goswami, Director, to file this Application. In the Application filed in Form No.6, the Corporate Applicant has shown the following companies as 'Financial Creditors';

1. K.Z. Leasing & Finance Ltd.,
2. Panel Décor Private Limited,
3. Tejal Paper Mills (P) Limited.

The amount in default is Rs. 58,00,000/-, Rs. 40,53,483/-, and Rs. 27,00,000/- respectively, totalling to Rs. 1,25,53,483/-. It is stated by the Corporate Applicant that the Company has committed default in payment of financial debts to the aforesaid Financial Creditors.



3. Applicant furnished list of Operational Creditors at Page No. 32 of the Application. According to the Corporate Applicant, there are 182 Operational Creditors and the amount due to them is Rs. 6,27,90,404/-.

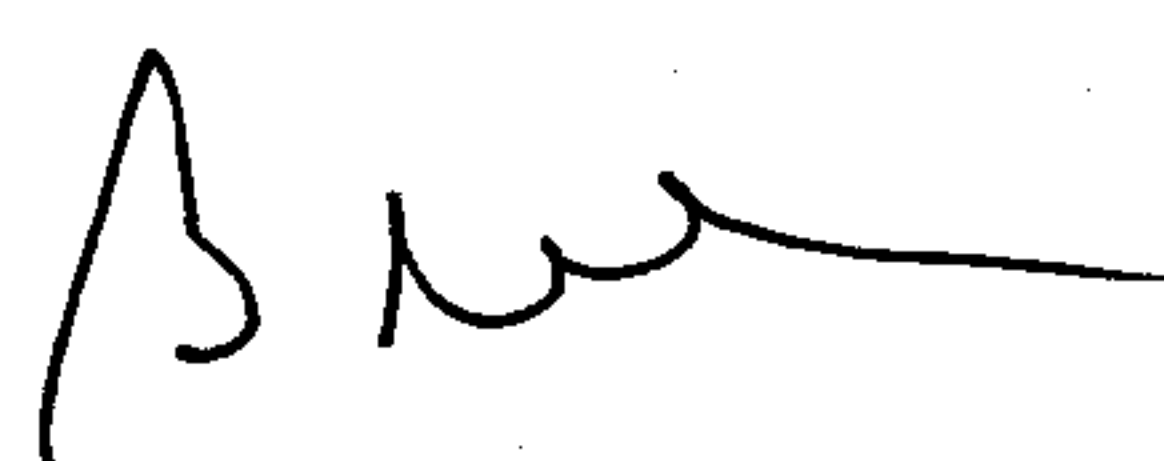
4. Corporate Applicant, in his Affidavit filed in support of the Application, stated that Company was incorporated on 17<sup>th</sup> day of October, 1994 under the Companies Act, 1956 with Registrar of Companies as "Limited Company". The Authorized Share Capital of Company as on date is Rs. 9,00,00,000/- divided into 9,00,00,000 equity shares of Re. 1/- each. The Issued, Subscribed and Paid-up Share Capital of the Company is Rs. 8,17,28,850/- divided into 8,17,28,850 equity shares of Re. 1/- each. Corporate Applicant filed Audited Financial Statements of the Company for the Financial Years as at 31.3.2016 and 31.3.2017 along with statutory Auditor's Report, and Provisional Financial Statements for the Financial Year as at 29.6.2017 giving list of assets and liabilities with values assigned to each category; the names and addresses of the operational creditors and the financial creditors with the amounts due to each of them; and particulars of debtors including loans and advances divided into categories as related party and other than related party. It is stated that the Company has 23 shareholders having shareholdings more than 1% at present. There are six Directors in the Company.

5. Corporate Applicant stated that M/s. K.Z. Leasing & Finance Ltd., filed Miscellaneous Civil Application No.189 of 2015 in Company Petition No. 112 of 2013 filed winding up petition against the Company. It is stated that Financial Creditor unconditionally agreed to withdraw the said Petition. At that juncture, several winding up petitions were filed against the Company before the Hon'ble High Court of Gujarat under the Companies Act, 1956. Thereafter, various unsecured creditors entered into negotiations with the Company and all the winding up petitions came to be disposed of as dues were settled. It is stated by the Corporate Applicant that Official Liquidator was appointed as 'Provisional

Liquidator' and he handed over premises back to the Company. Corporate Applicant filed copy of Panchnama dated 20<sup>th</sup> November, 2015. According to the Corporate Applicant, the amount in default to M/s. K.Z. Leasing & Finance Ltd., and M/s. Panel Décor Private Limited., is Rs. 70,00,000/- and Rs. 1,27,40,673/- respectively. Corporate Applicant also filed Memorandum of Association and Articles of Association of the Company. Corporate Applicant also filed Demand Notices issued by K.Z. Leasing & Finance Ltd., and Notice of Demand issued by Income Tax Department.

6. Corporate Applicant filed this Application before the Registry on 11<sup>th</sup> July, 2017. Corporate Applicant filed proof of service of Application on the Financial Creditors. The matter was listed before this Adjudicating Authority for the first time on 01.8.2017. This Authority directed the Applicant to serve notice of hearing along with copy of order and file proof of service, and listed the matter on 4<sup>th</sup> August, 2017 for objections of Financial Creditors and for hearing before admission. Corporate Applicant filed proof of service of notices on all Financial Creditors before this Adjudicating Authority on 3<sup>rd</sup> August, 2017. In spite of service of notice, none present on behalf of the Creditors. Heard arguments of learned Counsel appearing for the Corporate Applicant.

7. One of the Directors of the Company, who is duly authorised by the Board of Directors of the Company, filed this Application in Form-6 of the Adjudication Rules invoking the jurisdiction of this Adjudicating Authority under Section 10 of the IB Code read with Rule 7 of the Adjudication Rules. Corporate Applicant also furnished all the information that is required as per Form-6 and its Annexures. The material placed on record by the Corporate Applicant is sufficient to satisfy that a default is committed by the Company in payment of financial debt to the Financial Creditors, and operational debt to the Operational Creditors. The material on record also goes to show that Corporate Applicant is liable to pay income-tax and other taxes to the Government.



8. It is stated in the Application that a winding up petition had been filed and an Official Liquidator was appointed as 'Provisional Liquidator'. But it is stated by the Corporate Applicant, the winding-up petitions filed by all the Secured Creditors were withdrawn on account of payment of dues and the Official Liquidator handed over possession of the Company to the management by virtue of the orders of the Hon'ble High Court of Gujarat. In view of the aforesaid facts stated by the Corporate Applicant in his Affidavit and as can be seen from the order of the Hon'ble High Court filed along with the Application, it is clear that winding up proceedings got terminated and no winding-up order has been passed. It is also clear from the Panchnama, the Official Liquidator handed over possession of the Company to the management of the Company. Therefore, the winding up petition which was closed is no impediment for initiating Insolvency Resolution Process by the Corporate Applicant in respect of the Company before this Adjudicating Authority.

9. Corporate Applicant, in the Application stated the name of Interim Resolution Professional and filed his Written Communication also. It is stated that no disciplinary proceedings are pending against the Interim Resolution Professional. The Application filed by the Applicant is complete in all aspects. As already said, there is an occurrence of default committed by the Company.

10. In view of the above said findings, the Application is admitted.

11. This Adjudicating Authority hereby appoint Shri Ramachandra D. Choudhary, R. Choudhary & Associates, CA, residing at 9-B, Vardan Tower, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad-380014, having Registration No. IBBI/IPA-001/IP-00157/2017-18/10326 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(b) of the Code.

12. The Applicant is also directed to make public announcement about initiation of Corporation Insolvency Resolution Process as required by Section 13(1)(b) of the Code and call for submission of claims under Section 15 of the Code.

13.(i) This Authority hereby order Moratorium under Section 13(1) for the following purposes referred to in Section 14 of the Code;

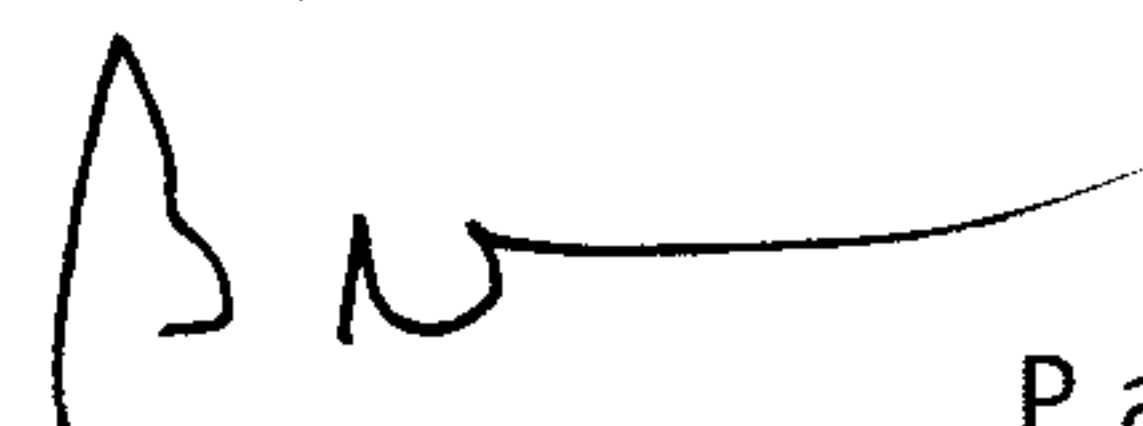
(a) the institution of suits or continuation of pending suits or proceedings against the Company including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the Company 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 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.

(ii) However, the supply of goods and essential services to the Company shall not be terminated or suspended or interrupted during the moratorium period.



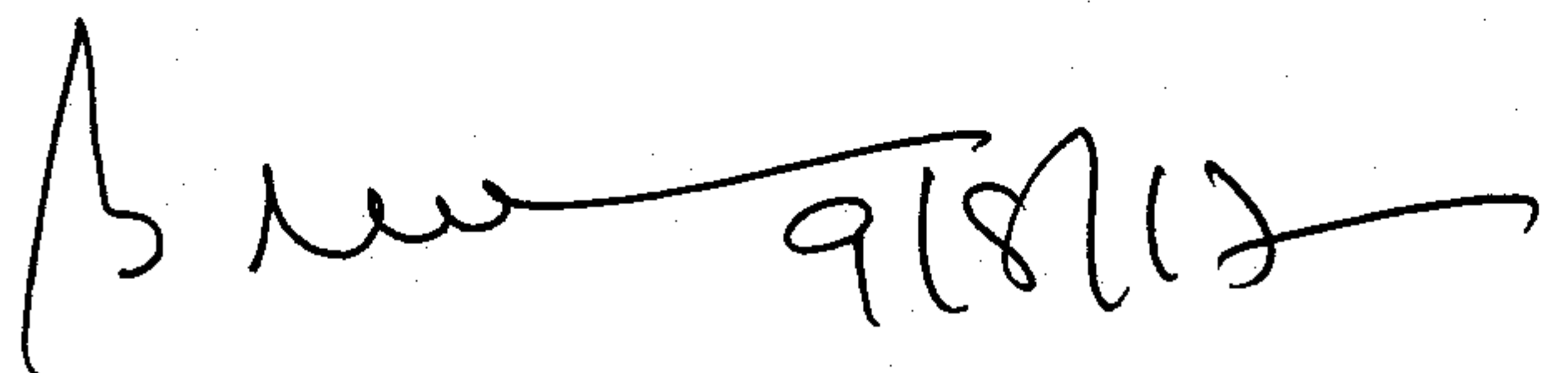
(iii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.

(iv) 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.

14. This Application is disposed of accordingly. No order as to costs.

15. Communicate a copy of this order to the Corporate Applicant, and to the Financial Creditors and to the Interim Insolvency Resolution Professional.

Signature:



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