

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Before Shri Madan B. Gosavi, Hon'ble Member (J)

CP (IB) No. 202/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Sanjay Stores, having office at 231, Maharshi Debendra Road, Kolkata- 700 007, and address for correspondence C/o- Smt. Smruti Rekha Das, Advocate, J. Banerjee & Co., Advocates-on-Record, Room No.28, South basement, 6, Old Post Office Street, Kolkata- 700 001;

... Applicant/Operational Creditor

-Versus-

In the matter of:

Cookme (Spice) Private Limited, having its registered office at 38, K.K. Tagore Street, Kolkata- 700 007;

... Respondent/Corporate Debtor

Counsel appeared:

1. Mr. David Mantosh, Advocate] For Operational Creditor
2. Ms. Lapita Banerjee, Bar-at-Law]
3. Ms. Smruti Rekha Das, Advocate]

Date of Pronouncement of Order: 27.09.2018

22

ORDER

M/s.Sanjay Stores, the Operational Creditor has filed this petition under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against the Corporate Debtor, M/s. Cookme (Spice) Private Limited to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor was unable to pay the debt of Rs.61,86,420/- towards certain goods supplied to the Corporate Debtor.

2. Notice of this petition was served on the Corporate Debtor. The Corporate Debtor appeared in the matter but did not file Affidavit-in-reply in spite of directions and opportunities. During hearing of this petition, none appeared on behalf of the Corporate Debtor. Hence, hearing of this petition proceeded *ex parte* against the Corporate Debtor.
3. Operational Creditor has produced on record the statement of account along with all the details of debit and credit amount. At the foot of the account, amount of Rs.61,86,420/- appears to be due and payable by the Corporate Debtor to the Operational Creditor.
4. Operational Creditor also produced on record the copy of demand notice dated 30.06.2016 under section 8 of I&B Code. Notice appears to have been received by the Corporate Debtor. Corporate Debtor gave a reply stating that there is a serious dispute about the entries of the statement of account maintained by the Operational Creditor. However, Corporate Debtor did not approach this authority to establish their defence. Hence, I have no alternative but to accept the submission of Operational Creditor that Corporate Debtor committed default in paying the amount of Rs.61,86,420/-.



The Operational Creditor appears to have complied with the provisions of section 9(3)(b) and 9(3)(c) of the I&B Act. Hence, I admit this CIRP of the Corporate Debtor by the following order:

ORDER

The petition filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of Cookme (Spice) Private Ltd. and declare a moratorium and public announcement in accordance with Sec.13 and 15 of the IBC, 2016.

ii) Moratorium is declared for the purposes referred to in Sec.14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Sec.15 Insolvency & Bankruptcy Code, 2016 shall be made immediately.

iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 Securitization 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.
- iv) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.
- vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.



viii) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.

ix) As the Operational Creditor has not proposed any name for the appointment of Interim Resolution Professional (IRP), Mr. Rajesh Chhaparia (Mob. No.9831550730) having Email id: rchhaparia@gmail.com and Registration No. IBBI/IPA-001/IP-P00374/2017-18/10631 is appointed as the Interim Resolution Professional from the panel of Insolvency Professionals recommended by IBBI for appointment as IRP/Liquidator for Corporate Debtor for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan. IRP is directed to submit his consent along with written Communication in Form-2 within two weeks of the order.

x) The Interim Resolution Professional should convene the meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors. As per the amended provision of the I&B Code, he has to finalise the Resolution Plan on or before 105 days from the date of admission of CIRP.

xi) The copies of the order is to be communicated to the Operational Creditor, corporate debtor and IRP by the Speed Post and/or email immediately.

xii) Certified copy of the order may immediately be issued to the Financial Creditor, Corporate Debtor and IRP upon fulfilling of necessary formalities, as per the rules.

List the matter on **29 October, 2018** for submission of progress report by IRP.


(Mr. Josavi.)
Member(J)

Signed on this the 27th day of September, 2018