

IN THE NATION COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB-1406(ND)/2018

IN THE MATTER OF:

M/s Superlative Products Pvt. Ltd.

vs

M/s Gem Batteries Pvt. Ltd.

.....PETITIONER

.... RESPONDENT

SECTION

Under Section 9 IBC 2016

Coram:

R.VARADHARAJAN,

Hon'ble Member (Judicial)

Order delivered on 29.01.2019

For the Petitioner/Applicant

: Mr. Dhirubajit Suhas, Advocate

For the Corporate Debtor

:

ORDER

Learned counsel for the petitioner/operational creditor is present. Pursuant to the notice issued to the corporate debtor by this Tribunal the Corporate Debtor has filed an affidavit stating that he is not in a position to answer to the claim of the operational creditor ~~debtor~~ and along with the said affidavit the financial statements of the operational debtor duly audited has been filed on 31.03.2016 as well as on 31.03.2017. Perusal of the said audited financial statements discloses that terms loans have been availed from banks namely RBS Bank and Vijaya Bank. Even though a representation is made by the corporate debtor that he is not in a position to pay or answer the claim of the operational creditor evidencing the state of insolvency leading to the initiation of CIR process this Tribunal is of the view that notice be issued to the financial creditors as specified above as otherwise, the financial creditor will enter the fray only after the convening of the COC meeting as per the provisions of IBC, 2016 and valuable period of 30 days is lost in the initial process as this petition has been filed by the operational creditor who does not have any say in the COC if the amount claimed is lesser than the specified percentage. In the circumstances let notice

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be issued to Vijaya Bank and RBS Bank by the registry of this Tribunal within one week from today and to await the response of these Banks in relation to the petition. Post the matter on 11.02.2019.

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— Sd —
(R. VARADHARAJAN)
MEMBER (JUDICIAL)

Varinder Kumar