

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

I.A.No.69/2018
In
C.P.(IB)/03/GB/2018

Under Section 9 of the Insolvency & Bankruptcy Code, 2016

In the matter of:

Sri Purshotam Gaggar, IRP : Applicant

Coram:

Hon'ble Mr. Justice P. K. Saikia, Member (J)

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ORDER

Date of Order: 8th October 2018.

I.A.No.69/2018

Seen the report of the Registry dated 05.10.2018.

2. This proceeding has been initiated on the basis of the report submitted by the Interim Resolution Professional (in short, IRP), Shri Purshotam Gaggar. For ready reference, said report is reproduced below:

"To,

Date: 04.10.2018

The National Company Law Tribunal
G.S. Road, South Sarania,
Lachit Nagar, Guwahati
Assam-781003

In the matter of M/s Farmville Agrovat Limited (Corporate debtor).

Sub: Filing of First Progress Report of Corporate Insolvency Resolution Process

I, Purshotam Gagger, Interim Resolution Professional of Farmville Agrotech Limited (Corporate Debtor) appointed by Hon'ble National Company Law Tribunal, Guwahati vide letter no. NCLT/GB/1(30)/2018/1203 dated 31.08.2018 received by me on 07/09/2018 do hereby submit my First Progress Report before Hon'ble National Law Tribunal. The Report is produced hereunder:

1. After appointment on 07.09.2018, I have requested the applicant M/s Multichemical Industries Pvt. Ltd. (Operational Creditor) to publish public announcement on the commencement of Corporate Insolvency Resolution Process (CIRP) of Farmville Agrotech Limited in the following two newspapers; one in English daily and other in local language which are largely circulating in the State of Meghalaya, i.e, the place where the Registered office of Corporate Debtor is situated:

- a) The Meghalaya Guardian, English Daily
- b) Mawphor, Local Language Daily

The public announcement for commencement of CIRP was published on 10th September, 2018. Copies of the announcement published in both the newspapers are enclosed herewith as **Annexure 1**.

2. I have received four claims from the operational creditors in response to public announcement and the details of same is given below:

Name of Claimant	Amount Claimed (in Rs.)
Poddar Business Private Limited	10,33,667
Pratishtha Commercial Private Limited	1,98,84,765
Multichemical Industries Private Limited	25,56,619
Stallen South Asia Private Limited	7,36,144

I have verified the claim amounts with the invoices and other documents enclosed with claims and prima facie the claims of principal amount of dues of all for operational creditors were found to be acceptable. I have scrutinised the details of claims received and claim accepted are as per **Annexure- ii** of this report. I have sent confirmation of claims received to all the four creditors.

3. In terms with Regulation 16 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, I have constituted a Committee of Creditors and all four operational creditors are the members of committee of creditors as there are no claims by Financial Creditors. As per the information available in the Index of Charges of the Corporate Debtor as displayed in the website of Ministry of Corporate Affairs, there is no Financial Creditor in Farmville Agrotech Limited.
4. After going through the claims of Operational Creditors I recommend constitution of the committee of Creditors as below:-

Sl. No.	Name	Designation	Voting Rights (%)
1.	Podder Business Private Limited	Operational Creditor	4.20
2.	Pratishtha Commercial Private Limited	Operational Creditor	81.59
3.	Multichemical Industries Private Limited	Operational Creditor	9.21
4.	Stallen South Asia Private Limited	Operational Creditor	5.00

No claim from employee/ex-employee received by me as such no representative of employee/ex-employee is included in the Committee of Creditors.

5. I have visited the Registered office of Farmville Agrotech Limited at Arya Samaj Mandir Building, G.S. Road, East Khasi hills, Shillong 793002, Meghalaya on 21.09.2018 and found the office of the Corporate debtor is located at leased premises of one Mr. Chandi Prasad Sharma (Tax Consultant) who informed me that the Corporate debtor is just keeping this address as their registered office, however, no activity of the Corporate debtor is carried out at his office and neither the books of accounts nor any other records are available at the registered office. I could not find any employee of the Corporate Debtor working at its Registered Office nor any other activity of the Corporate Debtor was visible at the time of my visit to Regd. Office at Shillong.
6. I have also directed the Corporate Debtor and its director's via email dated 28.09.2018, to provide details of its assets and liabilities with location and other documents on 28.09.2018.

I now request Hon'ble National Company Law Tribunal to take cognizance of the above details and provide suitable direction as the Hon'ble National Company

Law Tribunal deems fit for effective execution of the Insolvency Resolution Process.

Thanking You,

Yours faithfully,

(CA PURSHOTAM GAGGAR)
Interim Resolution Professional of Farmvellie Agrovet Limited

3. It is, thus, evident from the report that since there was no Financial Creditor but only Operational Creditors (in short OC), therefore, constituted the Committee of Creditors (in short, COC) by including therein all the OCs aforementioned. In that connection, one may look into Section 22 of the Insolvency and Bankruptcy Code, 2016 (in short, Code of 2016), which makes provision for appointment of IRP. For ready reference, Section 22 is reproduced below:

“22. Appointment of resolution professional.— (1) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.

(2) The committee of creditors, may, in the first meeting, by a majority vote of not less than seventy-five percent of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional.”

4. It is not clear from the report whether the COC had convened its first meeting within seven days from the date of constitution of the COC as required under Section 22 (1) of the Code of 2016. It may be stated here that Section 22 (2) gives the COC the discretion to either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional.

5. It is not known whether such meeting was convened by the COC so specified in Section 22 (1) & (2) of the Code of 2016. The IRP is directed to submit a report immediately. It is found that the person of the CD has not extended assistance/cooperation to the IRP as is required of him in managing the affairs of the CD. However,

the information as regards the composition of the management of the CD is found hazy and unclear.

6. As such, the IRP is directed to give information as to the composition of the management of the CD immediately. He is further directed to inform as to whether the COC has discharged its duty as enjoined upon it under Section 22 (1) & (2) of the Code of 2016.

7. List this matter on 22.10.2018.

8. A copy of this order be sent to the IRP for information and necessary action.

sdt
Adjudicating Authority
National Company Law Tribunal
Guwahati Bench
Guwahati.

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