

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

C.P. (I.B) No. 131/9/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, 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 11.09.2018**

Name of the Company: Juneja Coal SSF Plant
V/s.
Madhya Bharat Phospate Pvt Ltd.

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	Dharmishta Raval	Advocate	Petitioner	} <u>Y. Thakore</u>
2.	Yuvraj Thakore	Advocate	Petitioner	

ORDER

Advocate Mrs. Dharmishta Raval with Advocate Mr. Yuvraj Thakore is present for the Petitioner.

The Order is pronounced in the open court, vide separate sheet.

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**MANORAMA KUMARI
(MEMBER JUDICIAL)**


**HARIHAR PRAKASH CHATURVEDI
(MEMBER JUDICIAL)**

Dated this the 11th day of September, 2018

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

C.P. No. (I.B) 131/9/NCLT/AHM/2018

In the matter of:

M/s. Juneja Coal SSF Plant
Corporate Zone
3rd Floor, C21 Mall
Bhopal (M.P)

:

Applicant
[Operational Creditor]

Versus

M/s. Madhya Bharat Phosphate Private Limited
E-7/80 Arear Colony
Bhopal 462 016 (M.P.)

:

Respondent
[Corporate Debtor]

Order delivered on September, 2018

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J)**

Appearance:

Advocate Ms. Dharmishta Raval is present for operational creditor/ petitioner
Advocate Mr. Kurven Desai is present for respondent.

ORDER

(Per: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J))

1. M/s. Juneja Coal SSF Plant, through its proprietor, filed this Application with a prayer for initiation of corporate insolvency resolution process against M/s. Madhya Bharat Phosphate Private Ltd., under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"].
2. It is stated that applicant is engaged in supply of coal and supplied goods to the respondent. The applicant sent 25.76 metric tons of coal vide invoice No. 2017/A-041 dated 02.10.2017 to the respondent. It is submitted by the applicant that, despite repeated requests, reminders



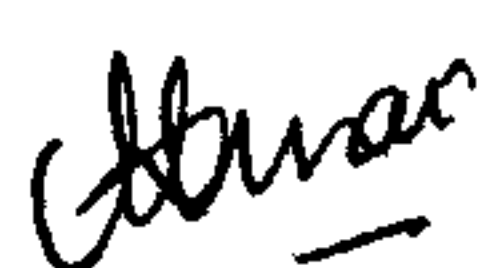


and personal follow-up, the respondent has not made payment of above bill amounting to Rs. 2,11,232/- which became due for payment on 01.11.2017.

3. Since the respondent did not make payment, applicant issued demand notice dated 22.02.2018 demanding payment in respect of unpaid debt due from the respondent.
4. This Application was filed on 2nd April, 2018. This Application was listed before this Authority for the first time on 03.04.2018 wherein applicant filed proof of service of the copy of the petition on respondent. This Authority directed the respondent to file objections, if any, within one week by serving an advance copy to the applicant.
5. The respondent did not file objections, however, as per the say of the applicant, to the demand notice, respondent categorically showed inability to pay the debt. The applicant has further submitted that, this clearly indicates that the respondent company has lost its substratum and has become commercially insolvent as it is unable to pay its debts.
6. Heard the arguments of the learned counsel appearing for the applicant as well as respondent and perused the documents annexed with the petition as well as documents submitted during the course of proceedings.
7. Applicant also filed copies of Invoices as well as delivery challans, copy of account statement and copy of demand notice dated 22.02.2018 served upon the respondent demanding payment in respect of unpaid amount due from the respondent.



8. The amount due to the applicant from the respondent is in respect of supply of goods. The claim made by the applicant is in respect of provision of goods. Therefore, the amount claimed by the applicant from the respondent is an operational debt within the meaning of Section 5, sub-section (21) of the Code. The operational debt is due to the applicant. Therefore, applicant is an Operational Creditor within the meaning of sub-section (5) of Section 20 of the Code.
9. The amount is due from the respondent to the applicant. Respondent is a company registered under the Companies Act. Therefore, respondent is a Corporate Debtor within the meaning of sub-section (8) of Section 3 of the Code.
10. The application filed by the Operational Creditor is complete. In spite of service of notice, Corporate Debtor did not choose to clear the debt. No notice of dispute has been given by the Corporate Debtor to the Operational Creditor even after receipt of demand notice from the Operational Creditor.
11. From the above discussion and on the basis of the documents submitted, it is held that it is a fit case to initiate insolvency resolution process by admitting the application under Section 9(5)(1) of the Code.
12. In view of the discussions, this Petition deserves to be admitted and accordingly it is admitted. This Adjudicating Authority is appointing Mr. Amresh Shukla, having his address at F-05, Jaideep Complex, 112, Zone-II, M.P. Nagar, Bhopal 462 011 having Registration Number as IBBI/IPA-001/IP-P00120/2017-18/10255, as 'Interim Insolvency Resolution Professional under Section 13(1) of the Code subject to confirmation received from the IBBI.



13. Section 13 of the Code says that after admission of the application under Section 7, the Adjudicating Authority shall pass an order declaring a moratorium for the purposes referred to in Section 14. Therefore, in view of the commencement of the Insolvency Resolution Process with the admission of this Petition and appointment of the Interim Resolution Professional, this Adjudicating Authority hereby passes the order declaring moratorium under Section 13(1)(a) prohibiting the following as laid down in Section 14 of the Code;

- (i) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
 - (a) The moratorium order in respect of (i), (ii), (iii) and (iv) above shall not apply to the transactions notified by the Central Government.
 - (b) That the supply of essential goods or services to the corporate debtor, if continuing shall not be terminated or suspended or interrupted during moratorium period.

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- (c) The Applicant shall also make public announcement about initiation of Corporate Insolvency Resolution Process, as required by Section 13(1)(b) of the Code.
14. This order of moratorium shall be in force from the date of order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.
15. Accordingly, this Petition is admitted.
16. The Registry is hereby directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.



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



**Harihar Prakash Chaturvedi
Member (Judicial)
Adjudicating Authority**