

**NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH**

(IB) 757 (ND) 2017

In the matter of

M/s Standard Strips Pvt. Ltd. Petitioner

V/s

M/s Chempharm Industries India Pvt. Ltd. Respondent

SECTION: 9 of IBC, 2016

Order delivered on 04.09.2018

Coram:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

MS. DEEPA KRISHAN, HON'BLE MEMBER (T)

For the Petitioner (s) : Mr. Rakesh Kumar, Advocate
Ms. Preeti Kashyap, Advocate
Ms. Chetna Bisht, Advocate

For the Respondents (s): None

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The petitioner, as an Operational Creditor, has prayed for initiation of Corporate Insolvency Process against the Respondent Corporate Debtor. As per the averments, at the request of the Corporate Debtor, the Operational Creditor had supplied material comprising of GP Coils, GIPSP

sheets etc used as raw material in terms of the purchase order placed on them. Invoices were raised and a running account was maintained by Operational Creditor which reflects an outstanding balance of Rs. 17,93,347/- as on 29.04.2018. Despite repeated requests and reminders the Corporate Debtor has failed to liquidate the outstanding liability. They however acknowledged their liability.

2. In view of the total inaction on the part of the Corporate Debtor, the Applicant/Operational Creditor issued a notice dated 04.05.2018 under Section 8 of the Insolvency & Bankruptcy Code which was replied to on 30.05.2018 by the Corporate Debtor. There was no denial of supply of goods. The only resistance was that the goods were not supplied as per quantity required. It is however not their case that the invoices were not as per the goods supplied or that the same was of an inferior quality. The petitioner applicant has filed the present petition in the required format. The petitioner has also annexed a statement of its Bank Account reflecting that there has been no credit of any of the amount due on the Corporate Debtor.

3. On filing of the petition, the respondent was served through the process of the court, but none appeared on their behalf. They were accordingly proceeded ex-parte. As the submissions made on behalf of the Operational Creditor remains unrebutted, the Adjudicating Authority has consider the Operational Creditor's case on merits.

4. The Operational Creditor has filed the necessary documents in support of its case which include the execution of the Agreement between the parties. The statement of their Bank account does not reflect credit of the amounts due on the Corporate Debtor.

5. In view of the aforesaid uncontroverted facts and in absence of any dispute, the submission that an Operational debt exists the prayer of the Operational Creditor merits consideration.

6. Accordingly, petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith. The said provisions are reproduced as below:

Section 14:

“14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

(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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) 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. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

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 section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”


7. The Operational Creditor has not proposed the name of Insolvency Resolution Professional.


8. Accordingly, Mr. Arunava Sikdar (Registration No. IBBI/IPA-001/IP-P00022/2016-2017/10047; Email ID: asikdar1990@gmail.com; Mobile: 9810063161) is appointed as the IRP from the panel of eligible

Resolution Professionals as submitted by IBBI. He is directed to take all steps as are statutorily required of him under the Code, specifically u/s 15, 17 & 18, 20 & 21 and shall file his report before the Adjudicating Authority at the end of his tenure as an IRP..

9. To meet the immediate expenses, the Operational Creditor is directed to arrange a sum of Rs. 2 lakhs at the disposal of the IRP to be disbursed against the actual expenses incurred. Copy of the order be given/emailed to the Operational Creditor, Corporate Debtor and the IRP.

10. To come up for the report on 9th October, 2018.


(Deepa Krishan)
Member (T)


(Ina Malhotra)
Member (J)