

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-III**

C.P. No. IB-623/(ND)/2018

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

J. M. Kapoor & Co.
46 D, Lekh Ram Road,
Near Hindi Park, Darya Ganj,
New Delhi – 110002.

...Applicant

VERSUS

M/s Novex Private Ltd.
Registered office at:
Plot No. 1 & 2, Behind GPO,
Kashmere Gate,
New Delhi – 110029.

...Respondent



Coram:

**R.VARADHARAJAN,
HON'BLE MEMBER (JUDICIAL)**

**DR. V.K. SUBBURAJ,
HON'BLE MEMBER (TECHNICAL)**

Counsel for the Applicant: Mr. Atul Sharma, Advocate

Counsel for the Respondent: Mr. A. K. D. Sayarem, Mr. S. N. Gautam,
Advocates



ORDER

Date:10.12.2018

1. The above application has been filed under the provisions of Section 9 of Insolvency and Bankruptcy Code, 2016 (“the Code”) by the proprietor of J. M. Kapoor & Co. (“Applicant”) against Novex Pvt. Ltd. (“Respondent”). The transaction leading to filing of the present application as reflected in the application is stated to be as under:

- a. The Applicant, the proprietor of J. M. Kapoor & Co., provided professional services to the Respondent for sale tax related matters and issued various invoices dated 10.04.2017, 12.05.2017 and 07.06.2017 to the Respondent.
- b. The Respondent did not make any payments against the invoices. Thus, the Applicant issued a demand notice dated 09.04.2018 under Section 8 of the Code and the same was received by the director of the Respondent on 12.04.2017.



3

- c. No payment was made by the Respondent even after receipt of the demand notice and thus, the present application has been filed by the Applicant.
2. The Respondent filed an affidavit admitting the claim made by the Applicant against the Respondent, supported by a resolution of the Board of Directors dated 06.07.2018. The Respondent also filed its balance sheet as on 31.03.2018 and the projected balance sheet for period ending 01.09.2018 on a direction dated 14.08.2018 issued by this Tribunal and it is seen that the Respondent company is operating on a loss.
3. In light of the specific admission of the Respondent regarding the default and in the circumstances mentioned above this Tribunal is of the considered view that this application requires to be admitted and that Corporate Insolvency Resolution Process is required to be initiated against the Respondent.
4. The Applicant has proposed Mr. Rishi Parkash Vats, registered with ICSI-IPA having registration number IBBI/IPA-002/IP-N00248/2017-18/10733, (email: rpvats@vgclawfirm.com) as the interim resolution professional and a written communication in the format prescribed under

Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the proposed interim resolution professional. As a consequence of the application being admitted in terms of Section 9 of the Code moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(a) 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;

(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;

(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.

During the pendency of the moratorium period Section 14(2) and 14(3) as extracted hereunder shall also apply:



(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.

The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and is reproduced below for ready reference:

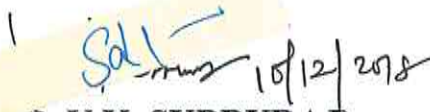
(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:


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.

11. Based on the above terms, the Application stands admitted in terms of Section 9 of the Code and the moratorium shall come in to effect as of this date. A copy of the order shall be communicated to the Applicant as well as to the Resondent/Corporate Debtor above named by the Registry. In addition a copy of the order shall also be forwarded to IBBI for its records. Further



the IRP above named be also furnished with copy of this order forthwith by the Registry.


(DR. V.K. SUBBURAJ)
MEMBER (TECHNICAL)


(R. VARADHARAJAN)
MEMBER (JUDICIAL)

T