

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. No. 2044/I&BP/2018

Under section 8 & 9 of the IBC, 2016

In the matter of

Shanaya Fashions,
(By its sole proprietor Rahul Jhaveri)
Shop No. 7, The Mistry Park, 77,
Bhulabhai Desai Road, Breach Candy,
Mumbai - 400026.

....Petitioner

v/s.

Oneworld Creations Pvt. Ltd.
Todi Estate, A Wing, Above Post Office,
Sunmill Compound Lower Parel- West,
Mumbai - 400013.

....Respondent

Order delivered on: 07.09.2018

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Shyam Kapadia, Adv. i/b Mr. Anil D'souza.

For the Respondent: Ms. Sunila Chavan, Adv. i/b Mr. Chandrakant
Mhadeshwar.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. This Company Petition is filed by Mr. Rahul Jhaveri, Sole Proprietor of Shanaya Fashions (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Oneworld Creations Pvt. Ltd (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 05.04.2018 in making payment to the extent of Rs. 11,98,52,570/- by invoking the provisions of Sections 8 & 9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petitioner submits that fabrics were supplied to the Corporate Debtor from 22.12.2017 to 05.04.2018 to the extent of Rs. 11,98,52,570/- by raising invoices on the Corporate Debtor. The Petitioner issued demand

notice on 09.05.2018 under section 8 of IB Code in Form 3 demanding the said amount of Rs. 11,98,52,570/-.

3. The Corporate Debtor replied to the demand notice on 11.05.2018 stating that their clients have defaulted in making payments to them and they are resorting to legal proceedings against their clients for recovery of dues to them. Further, the Corporate Debtor requested the Petitioner not to take any legal proceedings as contemplated in the said demand notice. The reply of the Corporate Debtor does not raise any dispute as defined under section 5(6) of the Code and in view of this there is no denial of either the debt or default.
4. The learned counsel appearing on behalf of the Corporate Debtor also candidly admitted the debt and default and in fact expressed her no objection for admission of this Petition.
5. One Mr. Ajay Gupta, residing at A- 701/ 702, La Chappelle, Evershine Nagar, Malad (West), Mumbai – 400 064 having Registration No. IBBI/IPA-001/IP-P00192/2017-2018/10371 has given his consent in Form No. 2 to act as an Interim Resolution Professional.
6. This Bench having been satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring moratorium with the directions as mentioned below:
 - (a) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- (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.
- (c) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) That the order of moratorium shall have effect from 07.09.2018 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Ajay Gupta, residing at A-701/ 702, La Chappelle, Evershine Nagar, Malad (West), Mumbai - 400 064 having Registration No. IBBI/IPA-001/IP-P00192/2017-2018/10371 as an interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.

8. The Registry is hereby directed to communicate this order to both the parties.

SD/-

V. NALLASENAPATHY
Member (Technical)

SD/-

BHASKARA PANTULA MOHAN
Member (Judicial)