

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

**IB-**  
**702(ND)/2018**

**In the matter of**

Sole Proprietor  
Nand Kishor Gautam, Super Print Services  
8938/14-B 1<sup>st</sup> floor, Sidipura Market  
New Delhi-110005

...Operational Creditor

Vs.

M/s Xalta Food and Beverages Private Limited ,  
RZ-37A, Naya Bazar, Rati Ram Park  
Najaf Garh, New Delhi-110043

.... Corporate Debtor

**Order delivered on: 25.07.2018**

**CORAM:**

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

**SMT. DEEPA KRISHAN, HON'BLE MEMBER (T)**

For the Petitioner: Mr. Vinod Chaurasia, Advocate

For the Respondent: Mr. Vishnoo Mittal, Director of the Company

**ORDER**  
**PER SMT. INA MALHOTRA, MEMBER (J)**

The present petition has been filed under Section 9 of Insolvency Bankruptcy Code (hereinafter referred to as the "Code") praying for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor for its inability to liquidate its outstanding dues. The petitioner, Mr. Nand Kishor Gautam as proprietor of M/s Super Print Services, had supplied various promotional materials, printed goods including posters, umbrellas, flex banners, flex boards, key chains, T-shirts, brochures on agreed terms and conditions to the Corporate Debtor. Supplies were made on continuous basis.

2. The operational creditor raised invoices which were outstanding, details of the amounts under the unpaid invoices are as under:-

INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT
892	21 <sup>st</sup> Dec 2016	122300
1045	25 <sup>th</sup> Feb 2017	297132
1066	10 <sup>th</sup> Mar 2017	115098
1168	11 <sup>th</sup> May 2017	22701
1169	11 <sup>th</sup> May 2017	45045
1193	23 <sup>rd</sup> May 2017	913
1459	5 <sup>th</sup> Feb 2018	1624
1460	5 <sup>th</sup> Feb 2018	8120

Further after a regular follow-up/ reconciliation request, the Corporate Debtor issued the Confirmation of Accounts and The Ledger Account of operational creditor maintained by them and thereafter admitted its liability to pay the Operational debt of Rs. 5,65,013/-.

3. The Operational Creditor issued the demand notice dated 18.05.2018 as required under Section 8 of the Code was issued, demanding a sum of Rs. 5,65,013/- being the principal amount and has also claimed interest thereon.

4. In view of the Corporate Debtor's failure to respond or liquidate its liability, the present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Affidavit in compliance under Section 9(3)(b) & 9(3)(c) of Code and Bank Statements of the Operational Creditor are on record to corroborate their case.

5. On putting in appearance before this Bench, the only defence adopted by the Corporate debtor is that they are facing a financial crunch and are unable to liquidate the Operational debt immediately. The liability to pay the amount of Rs. 5,65,013/- is admitted by the Corporate Debtor. Mr. Vishnoo Mittal, Director of the Corporate Debtor appeared in person and admitted the claim of the Operational Claim of the applicant.

6. In the absence of any dispute, or rather in the face of a clear and categorical admission of the Corporate Debtor, the prayer of the operational Creditor has to be admitted. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith staying:

*“(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.*

Further,

(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:

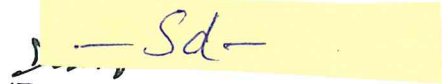
*“Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”*


7. The Operational Creditor has proposed the name of the IRP, Mr. Naveen Kumar Jain, Registration No. IBBI/IPA-001/IP-00650/2017-18/11097, email: [insolvencyprofessional@rediffmail.com](mailto:insolvencyprofessional@rediffmail.com), Mobile No. 8130301706 duly empanelled with the IBBI. His consent and certificate of eligibility are on record. He is therefore being confirmed as the IRP in

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this case and is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21.

8. The IRP is directed to file his report within the statutory period.
9. Copy of the order be sent to both the parties as well as to the IRP.
10. Be listed for further consideration on 31<sup>st</sup> August, 2018.

  
**(DeepaKrishan)**  
**Member (T)**

  
**(Ina Malhotra)**  
**Member (J)**