

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, (COURT-II)

Item No. 3
(IB)-258(ND)2020

IN THE MATTER OF:

Arora Vinyl Pvt. Ltd.	...	Applicant/Petitioner
Versus		
Shri Banke Bihari Cotfab Pvt. Ltd.	...	Respondent

Under Section: 9 of IBC, 2016

Order delivered on 19.02.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (J)

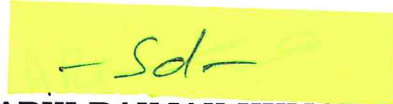
SHRI. L. N. GUPTA
HON'BLE MEMBER (T)

ORDER

The Order is pronounced in the Open Court today.



(L.N. GUPTA)
MEMBER (T)



(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-258(ND)2020

IN THE MATTER OF:

**M/s. Arora Vinyl Pvt. Ltd.
Plot No. 921, MIE Part-A
Bahadurgarh 124507
District- Jhajjar, Haryana**

...Operational Creditor

VERSUS

**M/s Shri Banke Bihari Cotfab Pvt. Ltd
Unit No. 511, Fifth Floor Ring Road,
Mall Mangalam Place, Sector-3, Rohini
North West, Delhi-110085**

... Corporate Debtor

Section: 9 of IBC, 2016

Order Delivered on: 19.02.2021

CORAM:

SH. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner : Mr. Arvind Kumar & Mr. Shubham Verma,
Advocates

For the Respondent : Mr. Shashwat Singh Gaur, Advocate

(IB)-258(ND)2020

M/s. Arora Vinyl Pvt. Ltd. Vs. Shri Banke Bihari Cotfab Private Limited.

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

The present petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Arora Vinyl Private Limited (for brevity 'Operational Creditor') through its authorized representative Mr. Sanjeev Sachdeva, who is duly authorized vide Board Resolution dated 26.12.2019 of Operational Creditor, with a prayer to initiate the Corporate Insolvency process against M/s Shri Banke Bihari Cotfab Pvt. Ltd. (for brevity 'Corporate Debtor').

2. The Corporate Debtor namely, M/s Banke Bihari Cotfab Private Limited is a Company incorporated on 21.05.2013 under the provisions of Companies Act, 2013 with CIN No. U17200DL2013PTC252433, having its registered Office at Unit No. 511, Fifth Floor, Ring Road Mall Manglam Place, Sector 3 Rohini North West Delhi 110085, which lies within the jurisdiction of this Tribunal.

3. The Authorised Share Capital of the Corporate Debtor is Rs.8,00,00,000 and Paid-up Share Capital of the Company is Rs.8,00,00,000 as per the Master Data of the Company annexed.

4. It is submitted by the Operational Creditor that Corporate Debtor had approached it for supply of Coated Textile Fabrics, PVC Laminated Sheets and other items. It is added that the last supply was made on 16.02.2018.

5. It is further submitted by the Operational Creditor that its total claim amounts to Rs. 41,59,657/- out of which Rs.34,37,733.64/- is the Principal amount and Rs.7,21,924/- is the interest amount @ 18% per annum.

6. It is stated by the Operational Creditor that it has raised invoices as per the said sales and supply of Coated Textiles Fabrics and PVC Laminated sheets and other items to Corporate Debtor. The details of the Invoices and part payment received as shown in the Ledger Account of the Operational Creditor are reproduced below:

ARORA VINYL PRIVATE LIMITED
PLOT NO. 921, M I E PART-A
CITY BAHADURGARH DISTT. JHAJJAR
HARYANA-124507 (INDIA)
CIN U00000DL2001PTC109648

SHRI BANKE BIHARI COTAB PVT. LTD.
Ledger Account
PLOT NO. 268 SECTOR -17 HSIIDC
FOOTWEAR PARK BAHADURGARH
DISTRICT JHAJJAR HARIYANA INDIA

1-Jul-2017 to 31-Mar-2018

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Date	Particulars	Vch Type	Vch No.	Debit	Credit
1-7-2017	Cr Opening Balance				
19-7-2017	Cr SALE LOCAL	Sales		6,23,172.00	
21-7-2017	Cr SALE LOCAL	Sales	Avp/17-18/82	2,00,289.60	
22-7-2017	Cr SALE LOCAL	Sales	Avp/17-18/82	1,78,114.00	
24-7-2017	Cr SALE LOCAL	Sales	Avp/17-18/101	1,80,533.00	
27-7-2017	Cr SALE LOCAL (18%)	Sales	Avp/17-18/111	5,24,100.02	
30-8-2017	Cr SALE LOCAL	Sales	Avp/17-18/129	7,56,175.02	
8-9-2017	Cr SALE LOCAL	Sales	Avp/17-18/390	2,10,470.00	
15-9-2017	Dr SBI CC A/C (36452772261)	Receipt	Avp/17-18/463	2,38,118.00	
8-10-2017	Dr SBI CC A/C (36452772261)	Sales	320		2,98,837.00
8-10-2017	Cr SALE LOCAL	Receipt	Avp/17-18/749	1,02,514.00	
1-10-2017	Cr SALE LOCAL	Sales	439		1,39,312.00
1-11-2017	Cr SALE LOCAL (18%)	Sales	Avp/17-18/824	2,40,591.00	
1-11-2017	Cr SALE LOCAL	Sales	Avp/17-18/840	1,78,829.00	
1-11-2017	Cr SALE LOCAL	Sales	Avp/17-18/898	3,18,612.00	
1-11-2017	Cr SALE LOCAL	Sales	Avp/17-18/905	2,36,794.00	
1-11-2017	Cr SALE LOCAL	Sales	Avp/17-18/933	2,93,617.00	
1-11-2017	Dr SBI CC A/C (36452772261)	Receipt	606		1,87,023.00
1-12-2017	Cr SALE LOCAL (18%)	Sales	Avp/17-18/1303	3,80,830.00	
1-1-2018	Dr SBI CC A/C (36452772261)	Receipt	810		1,80,633.00
1-1-2018	Dr SBI CC A/C (36452772261)	Receipt	870		1,78,114.00
1-1-2018	Cr SALE LOCAL (18%)	Sales	Avp/17-18/1566	4,04,758.00	
1-2-2018	Dr SBI CC A/C (36452772261)	Receipt	871		2,00,290.00
1-2-2018	Cr SALE LOCAL	Sales	Avp/17-18/1700	2,525.00	
	Dr Closing Balance			50,69,841.64	11,82,109.00
				50,69,841.64	50,69,841.64

7. It is further stated by the Operational Creditor that since the Corporate Debtor Company had failed to liquidate its dues, it had sent a Demand Notice dated 16.12.2019, under Section 8 of IBC 2016 vide Registered Post at the Registered Office as well as the Branch Offices of the Corporate Debtor. It is further added that the Demand Notice could not be served through Registered Post at the Registered Office as well as the Branch Office address. However, it is averred by the Operational Creditor on Page-45 of its application that the Demand Notice was served through E-mail dated 16.12.2019 at the mail id shailesh.poddar@yahoo.com, of one of its Director namely, Shri. Shailesh Poddar. It is further added that the Demand Notice was also served upon the Director by speed post on 17.12.2019.

8. That the Petitioner in its Affidavit under Section 9(3)(b) of IBC, 2016 has made specific averment regarding non-receipt of Notice of any dispute issued by the Respondent. Further, the Petitioner has annexed Certificate of SBI, SME Industrial Complex Branch, Bahadurgarh dated 07.01.2020 in compliance of Section 9(3) (c) of IBC, 2016.

9. As despite notice, none appeared on behalf of the Corporate Debtor Company during the proceedings, the Corporate Debtor was proceeded ex-parte vide order dated 12.02.2020 passed by this Tribunal.

10. In the given facts and circumstances, the present petition being complete and the petitioner having established the default in payment of the operational debt beyond doubt, the Petitioner is entitled to claim its dues. The Petition is, therefore, admitted in terms of Section 9(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(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 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.”

11. The Operational creditor has not proposed the name of any IRP. Therefore, this Bench based on the list provided by the IBBI, appoints Shri. Raj Kumar Gupta as an IRP having Registration No. IBBI/IPA-002/IP-N00064/2017-18/10142 (Email- rkgassociat@gmail.com, Mobile No.

9810741973) subject to the condition that no disciplinary proceedings are pending against the IRP named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. The IRP is directed to take the steps as mandated under the Code specifically under Section 17, 18, 20 and 21 of IBC, 2016.


12. The Operational Creditor is directed to deposit Rs.2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. This amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

13. In terms of the above, the Application stands admitted in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date.

14. A copy of this Order shall be communicated by the Bench Officer/Registry to the Applicant, the Corporate Debtor and the IRP mentioned above immediately. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their records.



(L. N. Gupta)
Member (T)



(Abni Ranjan Kumar Sinha)
Member (J)