

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

IB-821 (ND)/2018

In the matter of

Shanti Lal

(Sole Proprietor of M/s Jainsons (India)

...Operational Creditor

Vs.

Jasper Engineers Private Limited ,

.... Corporate Debtor

Order delivered on:05.09.2018

CORAM:

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

For the Petitioner: Mr. Naveen Kumar, Advocate and CS Anu Kadian

For the Respondent: Mr. Vipin Singh, Advocate along with Mr. Arvind Mathur

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 entitlement to receive payment arises from supply of material to the Corporate Debtor.

2. The Operational Creditor, Mr. Shanti Lal Jain as sole proprietor of his business carried out under the name and style of M/s Jainsons (India), is engaged in the business of manufacture and supply of electrical components, instruments and allied parts. The Corporate Debtor had approached him in January 2010 and since then the operational Creditor has been supplying various electrical goods to the Corporate Debtor. The business transactions between the parties took place till June 2016. As per the Statement of the running account maintained by the Operational Creditor, a sum of Rs. 2,25,669/- is due from the Corporate Debtor.

The Operational Creditor has averted that despite repeated requests and reminders, the Corporate debtor has not taken any steps to reduce the liability. A demand notice dated 02.05.2018 as required under Section 8 of the Insolvency and Bankruptcy Code was then issued, demanding principal sum of Rs. 2,25,669/- and the interest accruing thereon. The said notice was duly accompanied by the copies of the Ledger Account and Bank Statements and C Forms issued against the invoices which remains unpaid.

No reply to the said notice was received by the Operational Creditor.

3. 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) of Code as well as Bank Statements of the Operational Creditor are on record to corroborate their case.

4. Upon being served, the Corporate Debtor put in appearance through its Director, Mr. Arvind Kumar and acknowledged the operational debt, but submitted that the Corporate Debtor was not in a financial position to liquidate the same.

5. In view of the categorical admission of the Corporate Debtor confirming their liability to pay the outstanding debt and their inability to pay on account of financial distress, the petition merits consideration. The petition is therefore 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.”

6. The Operational Creditor has not proposed the name of any Interim Resolution Professional. In view of the same, we appoint Mr. Hemant Gupta, Registration No. IBBI/IPA-001/IP-P-01072/2017-18/11763 email hka.consultants@gmail.com, 9910611114 empanelled with the IBBI's as an approved IRP. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.
7. The Operational Creditor is directed to deposit a sum of Rs. 2 Lakhs to meet the immediate expenses required for the Resolution Process to be duly accounted for by the IRP.
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 10th October, 2018.

Sd/-
(Ina Malhotra)
Member (J)