

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**


C.P. (I.B) No. 81/9/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 12.09.2018**

Name of the Company: Ritesh K.V.K Suchak.
V/s.
Anil Life Science Ltd.


Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

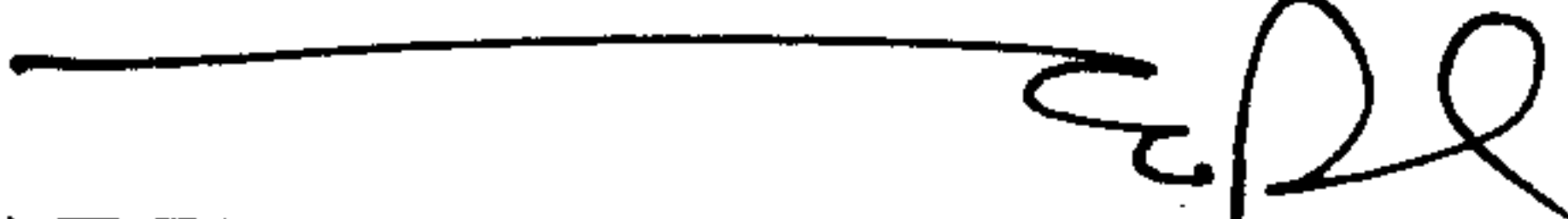
<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	NATASHA DHIRUMAN SHAH	ADV.	APPLICANT	
2.				

ORDER

Advocate Ms. Natasha Shah is present for the Operational Creditor/petitioner

The Order is pronounced in the open court, vide separate sheet


**MANORAMA KUMARI
(MEMBER JUDICIAL)**


**HARIHAR PRAKASH CHATURVEDI
(MEMBER JUDICIAL)**

Dated this the 12th day of September, 2018

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No. (I.B) 81/9/NCLT/AHM/2018

In the matter of:

Mr. Ritesh K.V.K. Suchak
Nr. Gandhi Ganj,
In Front of Vijaya Bank
Chhindwara, Madhya Pradesh

:

Applicant
[Operational Creditor]

Versus

M/s. Anil Life Science Limited
Anil Starch's Premises
Anil Road
AHMEDABAD 380 025

:

Respondent
[Corporate Debtor]

C.P. No. (I.B) 116/9/NCLT/AHM/2018

In the matter of:

M/s. Ashish Rice Mill
Nr. Old Krishi Upaj Mandi Ganj
Rani Durgawati Ward
Seoni 480 661, Madhya Pradesh

:

Applicant
[Operational Creditor]

Versus

M/s. Anil Life Sciences Limited
Anil Starch's Premises
Anil Road
AHMEDABAD 380 025

:

Respondent
[Corporate Debtor]

COMMON ORDER

Order delivered on 12th September, 2018

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J)**

C.P. No. (I.B) 81/9/NCLT/AHM/2018

Appearance:

Advocate Mrs. Natasha Shah is present for Operational Creditor/Petitioner
Advocate Mr. Shriraj Khambete i/b. Nanavati Associates present for
Respondent.



[(PER : Ms. Manorama Kumari, Member (J))]

1. This application is filed by Mr. Ritesh K.V.K. Suchak, as Proprietor, with a prayer for initiation of corporate insolvency resolution process against M/s. Anil Life Sciences Limited, under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority Rules, 2016).
2. The applicant Mr. Ritesh K.V.K. Suchak is engaged in the business of trading and exporting of food products, feed ingredients and spices (hereinafter referred to as "the goods" having at Chhindwara, Madhya Pradesh.
3. Corporate Debtor/respondent is a public limited company having its registered office situated at Anil Starch's Premises, Anil Road, Ahmedabad, Gujarat. The authorised share capital of the company is Rs. 5,00,00,000/- (Rupees five crores only) and paid up share capital is Rs.5,00,000/- (Rupees five lacs only).
4. It is stated by the applicant that in around 2014, the respondent M/s, Anil Life Sciences Limited, a public limited company, is engaged in the business of corn wet milling and allied activities and from the year 2016, applicant has been regularly supplying and selling goods to the respondent.
5. It is submitted that during the regular course of business, the respondent placed purchase orders in January-February 2016 and the applicant duly delivered the goods of utmost quality and requisite specifications. However, the respondent did not make payments

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towards goods purchased during the period January-February 2016. The applicant, therefore, requested the respondent to clear the invoices raised against the supply of goods. The applicant made several reminders calling upon the respondent to make payment of the outstanding amount as per the accounts. It is further stated by the applicant that the respondent, though admitting the outstanding debt, refrained from making payment.

6. The applicant was thus constrained to issue demand notice dated 12.09.2017 under the Provisions of the Insolvency and Bankruptcy Code, 2016 and the said demand notice was served through Registered Post AD. However, the same was returned on 18.09.2017. The applicant has neither received any payment nor any response to the notice dated 12.09.2017. The applicant has submitted that the debt has fallen due with effect from 28.03.2016 and computation of default is submitted in tabular form attached to the application marked annexure "B" (R-10).
7. The applicant has submitted that respondent vide letter dated 31.05.2016 has confirmed and accepted that it has to pay an amount of Rs. 24,49,799/-, to the applicant.
8. It is stated by the applicant that demand notice dated 12.09.2017 in Form 3 of IB Code was sent to the respondent claiming the amount of Rs. 25,41,414/- which comprises of the principal amount of Rs. 19,25,410/- along with interest at the rate of 2% per annum amounting to Rs.6,16,004/- from the date of default till 12.09.2017. The notice was returned and received back by the applicant on 18.09.2017. The applicant, having waited for a period of ten days and upon not receiving

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any reply from the respondent, filed this petition under Form 5 of the IB Code, before this Tribunal.

9. This Application has been filed on 05th February, 2018. This Application was listed before this Authority for the first time on 19.02.2018 wherein Mrs. Natasha Dhruvan remained present for the applicant and filed proof of service of the copy of the petition on respondent. None remained present for the respondent. A formal letter has been issued through Registry to the respondent on 20.02.2018 informing the date of hearing and to cause appearance before this Tribunal on 07.03.2018, but none remained present for the respondent. On 07.03.2018, during hearing, applicant filed unserved cover with postal remark "left". The copy of master data of MCA submitted by the applicant shows that the respondent company is active and the notices were sent to the registered office as reflected in the master data. With directives to the Registry to issue notice to ROC on the state of affairs of the respondent company, matter was adjourned to 02.04.2018. On 02.04.2018 also, none remained present on behalf of the respondent.
10. On 03.05.2018, when the matter was listed for hearing, learned advocate Mr. Arjun Joshi, for Nanavati Associates, remained present on behalf of respondent company and undertook to file vakalatnama on behalf of the respondent and further requested for time to file objections, accordingly prayer was allowed. The matter was again listed on 04.06.2018 for hearing wherein advocate Mr. Shriraj Khambete i/b Nanavati Associates remained present for the respondent and the respondent was allowed to file objections, if any, within one week. The appellant was also directed to issue a fresh notice of the date of hearing along with copy of the petition to the Central Government through the ROC and to file proof of service. The matter was again listed on

25.06.2018 wherein advocate Mr. Arjun Joshi representing the respondent proposed to file a pursis expressing no objection for admission of the present petition filed under Section 9 of the IB Code, but the Tribunal observed that vakalatnama from the respondent has not been filed and, therefore, such pursis cannot be accepted for want of proper authentication. Accordingly, respondent was directed to remain present through its officer with necessary Board Resolution authorising M/s. Nanavati Associates to represent the matter and offer its comments on permission of the petition. When the matter was listed on 16.07.2018, advocate Mr. Shriraj Khambete along with Mr. Vishad Ashok Jagasheth remained present on behalf of the respondent, who fairly submitted that he has no objection if the case is admitted.

11. Heard the arguments of the learned counsel appearing for the applicant as well as respondent and perused the documents placed on record.
12. It is observed that applicant has filed the copy of computation of default in tabular form, copy of the certified statement of bank account, copy of demand notice dated 12.09.2017, affidavit of applicant to the effect that no response is given by the respondent disputing unpaid operational debt and further, copy of certificate issued by State Bank of India confirming that the applicant is maintaining a current account with the bank since 02.04.2014 and there is no credit in the account from M/s. Anil Life Science Ltd. from the date 01.03.2016 to 30.09.2017.
13. The amount due to the applicant from the respondent is in respect of supply of goods between the period from 27.01.2016 to 24.02.2016. The claim made by the applicant is in respect of supply of goods. Therefore, the amount claimed by the applicant from the respondent is operational debt within the meaning of Section 5, sub-section (21) of

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the Code. Therefore, applicant is an Operational Creditor within the meaning of sub-section (5) of Section 20 of the Code.

14. The amount is due from the respondent to the applicant. Respondent is a Company registered under the Companies Act. Therefore, respondent is a Corporate Debtor within the meaning of sub-section (8) of Section 3 of the Code.
15. The application filed by the applicant is complete. The notice issued by the applicant upon the respondent has been returned as undelivered. However, on coming to know about filing of the instant application, the respondent company appeared through its representatives namely Mr. Vishad Ashok Jagasheth along with the counsel on 16.07.2018 who fairly admitted before this bench that respondent has "no objection" if the present I.B. Petition is admitted. It is pertinent to mention herein that the respondent was given sufficient opportunity to file objection i.e. on 03.01.2018, 04.06.2018 and 25.06.2018 but they did not choose to file any objection, rather respondent company expressed its no objection on 16.07.2018 for admission of the case by way of filing a purshis through his counsel.
16. From the above discussions and on the basis of the documents available on record and also by considering the no objection expressed by the respondent company, it is a fit case to initiate insolvency resolution process by admitting the application under Section 9 (5)(1) of the Code.
17. As in the present application, the Applicant did not name the Interim Insolvency Resolution Professional in the Application and made a request to refer the matter to the Insolvency Board under Section 16 of

the Code. Therefore, there is no need to file the Written Communication of the Interim Resolution Professional. Hence the Adjudicating authority is appointing Mr. Parthiv Parikh, 9, Vinandi Apartments, Panchwati Second Lane, Ambawadi, Ahmedabad 380 006 having registration No. IBBI/IPA-002/IP-N00369/2017-18/11063 as Interim Resolution Professional from the list provided by IBBI, subject to confirmation from IBBI.

18. Section 13 of the Code enjoins upon the Adjudicating Authority to exercise its discretion to pass an order to declare a moratorium for the purposes referred to in Section 14, to cause a public announcement of the initiation of corporate insolvency resolution and call for submission of claims as provided under Section 15 of the Code. Sub-section (2) of Section 13 says that public announcement shall be made immediately after the appointment of Interim Resolution Professional. In the instant case, simultaneous with the admission order, this Adjudicating Authority is not going to appoint Interim Resolution Professional because the Applicant did not propose the name of Interim Resolution Professional. But, this Adjudicating Authority is going to appoint Interim Resolution Professional after the same is recommended by the Insolvency and Bankruptcy Board of India under Section 16(4) of the Code. The Registry is directed to address a letter to the Insolvency and Bankruptcy Board of India, New Delhi recommending the name of Interim Insolvency Resolution Professional as named above, as named above and to confirm the appointment.

19. (a) In view of the above discussion, the Petition is admitted.
- (b) This Adjudicating Authority hereby makes reference to Insolvency and Bankruptcy Board of India to recommend above referred

name of Insolvency Professional to act as an Interim Resolution Professional if there are no disciplinary proceedings are pending against him. Such recommendation to be made to this Authority within 10 (Ten) days from the date of receipt of reference.

- (c) This Adjudicating Authority hereby declares the moratorium in respect of the Respondent/ Corporate Debtor Company, under Section 13(1)(a) and Section 14 of the I.B. Code; by prohibiting following action and further issuing necessary direction as stated as under:
- (i) 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;
 - (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 (54 of 2002);
 - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- (d) However, the supply of goods and essential services to the corporate debtor shall not be terminated or suspended or interrupted during moratorium period. The moratorium order in respect of (i), (ii), (iii) and (iv) above shall not apply to the transactions notified by the Central Government.

20. The Application is disposed of accordingly with no order as to costs.

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21. Communicate a copy of this order to Operational Creditor and Corporate Debtor. List the matter after receipt of confirmation from the Insolvency and Bankruptcy Board of India. On confirmation of the name of IRP from IBBI, the IRP will commence.

C.P. No. (I.B) 116/9/NCLT/AHM/2018

Appearance:

PCS Mr. Manish Buchasia i/b FCA Mr. Ajay Patni is present for Operational Creditor/Petitioner
Advocate Mr. Shriraj Khambete i/b. Nanavati Associates is present for the Respondent.

1. The instant application is filed by Mr. Tarun Kumar Agarwal, being the proprietor of M/s. filed this Application with a prayer for initiation of corporate insolvency resolution process against M/s. Anil Life Sciences Limited, under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority Rules, 2016).
2. The applicant is engaged in the business of trading and exporting of food products mainly maize having registered office at Nr. Old Krishi Upaj Mandi Ganj, Rani Durgawati Ward, Seoni, Madhya Pradesh.
3. Corporate Debtor/respondent is a public limited company having its registered office situated at Anil Starch's Premises, Anil Road, Ahmedabad, Gujarat. The authorised share capital of the company is Rs. 5,00,00,000/- (Rupees five crores only) and paid up share capital is Rs.5,00,000/- (Rupees five lacs only).

Shriraj

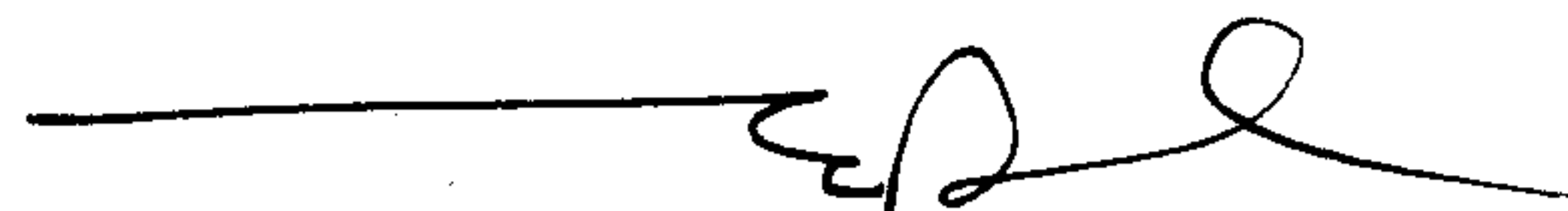
Shriraj

4. The applicant has submitted that an amount of Rs. 33,91,384/- is outstanding from the respondent towards the supply of goods (Maize) made by the applicant during the period from 14.12.2015 to 19.02.2016 as per abstract of ledger submitted by the applicant.
5. The applicant has submitted that the respondent vide its letter dated 31.05.2016 has confirmed the outstanding balance amount as a on 31.05.2016 to the tune of Rs. 33,45,680/-, due to the applicant.
6. On failure to pay the outstanding dues, the applicant issued demand notice dated 19.07.2017 in Form 3 of IB Code to the respondent claiming the amount of Rs. 33,91,384/-. The notice was returned unnerved on 18.09.2017. The applicant, having waited for a period of ten days and upon not receiving any reply from the respondent, has filed petition under Form 5 of the IB Code, before this Tribunal.
7. On filing of application on 21st February, 2018, applicant issued formal notice to the respondent through the Registry on 03.04.2018. On receipt of the notice, Mr. Arjun Joshi appeared and undertook to file vakalatnama. He was allowed two weeks' time to file objections. Since respondent failed to file objections on 04.06.2018, a fresh notice was issued to the respondent.
8. That on 25.06.2018, learned advocate Mr. Arjun Joshi appeared for the respondent and represented that he proposes to file purshis showing that there is no objection towards admission of the application filed under Section 9 of the Insolvency and Bankruptcy Code. Since Mr. Arjun Joshi was not holding vakalatnama, he was directed to remain present with corporate debtor.

Arjun

9. On 16.07.2018, Mr. Vishad Ashok Jagasheth appeared in person being representative of respondent along with the learned counsel Mr. Sriraj Khambete and filed purshis along with authority letter tendering their No Objection towards the admission of application.
10. Heard the arguments of the learned counsel appearing for the applicant as well as respondent and perused the documents on record.
11. On perusal of the application as well as the discussions it is found that the application is complete as per the provisions enshrined in Insolvency and Bankruptcy Code and the amount as claimed is due to the applicant from the respondent.
12. That CP (IB) 81 of 2018 is already admitted and it is also filed earlier in point of time, hence the applicant has the liberty to file his/their claim before the IRP/RP as appended in case No. CP (IB) No. 81 of 2018.
13. Under the facts and circumstances, CP (IB) No. 116 of 2018 is disposed of with the above observations.


Ms. Manorama Kumari
ADJUDICATING AUTHORITY
MEMBER JUDICIAL


Harihar Prakash Chaturvedi
ADJUDICATING AUTHORITY
MEMBER JUDICIAL

Nair/LCT