

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) NO. 218/09/HDB/2017
U/s 9 of the IBC, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of

Raj Steels
H.No. 11-171, Shivalayam Road
Fathenagar, Hyderabad - 500018

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

Also at

B.O. Sy. No. 607/A & 627/A, Devaryamjal (V)
Shamirpet (M), R.R. District
Hyderabad - 500 014

....Petitioner/
Operational Creditor

VERSUS

Sanjay Strips Private Limited
Plot No.72, Sy. 35 & 36 (Part)
37-43 & 65 (part), Aparna's Palm Grove
Phase-I, Kompally Village
Hyderabad, Rangareddy - 500100
Telangana

...Respondent

Order Pronounced on:13.11.2017

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Counsels/Parties present:

For the Petitioner: Shri Ranga Rao Doradla, Practising
Chartered Accountant
Mr. Raj Kumar Chhajjer, Proprietor
(party-in person)
For the Respondent: Mr. Sanjay Gupta and Mrs. Kiran
Gupta, Directors of the Respondent
Company

Shri Sanjay Kumar Ruia, Proposed IRP



Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The present Company Petition bearing CP (IB) No.218/9/HDB/2017, is filed by Raj Steels (Petitioner / Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority), Rules 2016, seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of Sanjay Strips Private limited (Respondent / Corporate Debtor).
2. Brief facts, leading to filing of the present Petition, are as follows:-
 - (a) Raj Steels (Petitioner/Operational Creditor) is represented by its sole Proprietor Mr Raj Kumar Chajjer. The Operational Creditor is carrying on the business of supply of CR and HR sheets and Slits and operates in the name and style of Raj Steels.
 - (b) Sanjay Strips Private Limited (Respondent No.1/Corporate Debtor) is a Private Limited Company is in the business of carrying on CR and HR sheets and Slits. The Company was incorporated on 24.02.2011.
 - (c) Mr. Sanjay Gupta (Respondent No.1) and Mrs. Kiranbala Gupta (Respondent No.2) are the Directors of the Respondent Company.
 - (d) The Authorised share capital of the Respondent Company is Rs. 2,30,00,000/- divided into 23,00,000 equity shares of Face Value of Rs. 10/- each. The issued and paid up share capital of the Company is Rs.2,27,20,000/- divided into 22,72,000 shares of Rs.10/- each.



(e) The Petitioner was supplying various materials to the Corporate Debtor for last five years and in the month of September and October 2016 it agreed to allow a credit period of 30 days from the date of invoice. It is further stated that the Petitioner used to despatch the goods at work place as per the requirement of Corporate Debtor and raised 39 invoices starting from Invoice No.133 dated 28.09.2016 to last outstanding invoice No.199 dated 10.10.2016 along with the copy of the Way Bills for each order / supply of goods.

(f) The Corporate Debtor made the last payment on 29.06.2017 of Rs. 2,00,000/- towards invoice No.0845 dated 23.07.2017 and there are no instances of return of goods by the Corporate Debtor and never raised any objection in the past.

(g) When the Corporate Debtor failed to make payment for the supplies, the Operational Creditor has issued a demand notice in Form No.3 and NCLT Form No.4 by hand on 15.09.2017 demanding to pay the outstanding amount of Rs. 1,98,46,665/- along with Rs. 61,76,153/- interest @ 36% per annum, making a total claim of Rs. 2,60,22,818/- as on 15.09.2017, directing the Corporate Debtor and its Directors to make the payment within 10 days from the date of receipt of notice.

(h) It is further contended that the Corporate Debtor has not made any payment nor raised any objection to the Demand Notice, till the filing of this Petition. When the Corporate Debtor failed to pay the outstanding amount, the Operational Creditor filed this petition to initiate Corporate Insolvency Resolution Process (CIRP)



- (i) The Petitioner's Banker DCB bank has also issued a certificate dated 27.10.2017 to the effect that no payment has been received from the Corporate Debtor from 15th of September, 2017.
3. The case was listed for admission on 23.10.2017, 03.11.2017 and finally on 13.11.2017.
4. Heard Shri Ranga Rao Doradla, Learned CA for the Petitioner/Operational Creditor, Shri Raj Kumar Chhajer, Proprietor in person, Shri Sanjay Gupta (Respondent No.1) and Mrs. Kiran Gupta, Respondent No.2, and have carefully perused all pleadings along with material papers and extant provisions of law. When the matter was heard on 23.10.2017, the Ld. Counsel for the Petitioner Company submitted that they have filed an Affidavit dated 23.10.2017, stating that their Banker namely DCB Bank Ltd intended that they will give Certificate U/s 9(3)(c) of IBC, 2016 only when NCLT directs them to issue the Certificate which is contrary to Law. Therefore the Adjudicating Authority directed the General Manager of the DCB Bank Ltd to be present before the Adjudicating Authority to explain as to why the bank is not issuing the Certificate as specified in the IBC Code, 2016 and the matter was posted on 03.11.2017.
5. In response to the above direction, Miss Radhika Bukka, Cluster Manager of DCB Bank Ltd and Shri Arvind Sohani Branch Manager of DBC Bank Ltd appeared and explained their difficulties and rectification measures taken by them to issue certificate and they ensured providing Certificate in future, in accordance with IBC



Code, 2016. Therefore the appearance of General Manager of DCB Bank Ltd was dispensed with.

6. During the hearing held on 03.11.2017, the Adjudicating Authority was shocked to notice the abnormally high fee structure of the proposed IRP. Therefore, sought details of his IT Returns for last 3 years.
7. After considering various documents filed by the Operational Creditor the debt and default in question is not in dispute. The Operational Creditor also issued proper demand notice as prescribed in Form 3 & 4 of the Section 8 of IBC. The Interim Resolution Professional proposed namely Shri Sanjay Kumar Ruia is also eligible to be appointed as IRP. The Corporate Debtor/Respondents appeared before the Adjudicating Authority also confirmed no objection to initiate Corporate Insolvency Resolution Process in the instant case.
8. During the hearing held on 13.11.2017, the proposed IRP has revised his fee structure reducing substantially his fee and also submitted his last 3 years IT returns



Particulars	Original (In Rs)	Revised (In Rs)
Consent in Form No.2 by IRP	50,000.00	NIL
Amount payable upon filing of the Petition before the NCLT as IRP	10,00,000.00	1,00,000.00
Professional fees for IRP till the 1 st CoC meeting	12,50,000.00	1,00,000.00
Fees for the subsequent months as IRP/RP on monthly basis	12,50,000.00	1,00,000.00
Reimbursement of out of pocket	On actual basis	2,00,000.00

Expenses, travelling expenses and Hotel stay		
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From the above fee structure of the IRP it is noted that originally he proposed total fee of Rs. 85,50,000/- (approx.) for the initial six months period in addition to actual cost of Public announcement to be made, cost of valuation by two valuers, cost of appointment of Advocate/Solicitor etc. as per his initial term sheet. However, when the revised fee structure was submitted, it was substantially reduced to only Rs. 9,00,000/- in addition to other actual cost of Public Announcement etc. as mentioned above. We have also perused the IT Returns submitted by the Proposed IRP and are convinced with the revised fee being proposed.



9. The Directors of Corporate Debtor appeared party-in-person expressed no objection for appointment of IRP and imposition of moratorium as per IBC. Considering above and also satisfied that no disciplinary proceedings are pending against the proposed Interim Resolution Professional and he is eligible to be appointed as IRP. The Learned Counsel for the Operational creditor has also submitted a rectification memo dated 13.11.2017 confirming that the Operational Creditor is proposing to initiate CIRP only against the Corporate Debtor and not against the Directors of the Corporate Debtor.
9. Hence, by invoking the powers conferred upon Adjudicating Authority under Sections 10,12,13,14,15,16, 17, 18, 19, 20, 21, 22 and 25 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, we pass the following order :-

- (a) We hereby appointed Shri CA Sanjay Kumar Ruia, B-3/1/1:3, Sector-2, Vashi, Navi Mumbai-400703 (Certificate No. IBBI/IPA-001/IP-P00353/2017-18 /2017-18/10654) as Interim Resolution Professional, by exercising powers under section 16 of IBC, 2016.
- (b) We hereby declare the following Moratorium by prohibiting the following actions:-
- 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 Securitization 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 possession of the corporate Debtor;
 - v) Direct to cause a public announcement of the initiation of Corporate Insolvency



Resolution Process immediately as prescribed under section 15 (1) and (2) of Insolvency and Bankruptcy Code, 2016, on www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board of India, circulated vide IIBI/IP/PUBLIC ANN/221 dated 01.02.2017) and email to public.ann@ibbi.gov.in, in addition to other accepted modes of publication immediately and call for submission of claims as per Section 15 of the IBC read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Company is also directed to publish the same in their Official website.



- vi) We direct the Interim Resolution Professional to constitute a Committee of Creditors, after collation of all claims received against the Corporate Debtor and determination of financial position of Corporate Debtor, as per Section 21 of IBC. The First meeting of the committee of creditors, shall be held within 7 days of the constitution of committee of creditors and their decision has to be communicated to the Tribunal as per Section 22 of the IBC.
- vii) Direct the personnel of Sanjay Strips Private Limited, its promoters or any other person associated with the management of Sanjay Strips Private Limited, to assist and cooperate with Interim Resolution

Professional to provide access to documents and records and management of the affairs of the Company.



viii) We direct the Interim Resolution Professional to strictly adhere to all extant provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and shall report his actions promptly to this Tribunal by way of sworn affidavit.

ix) Post the case on 10.12.2017

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

[Signature]
Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... *CP(LD) No. 218/09/HDB/2*
निर्णय का तारीख
DATE OF JUDGEMENT... *13.11.2017*
प्रति तैयार किया गया तारीख
COPY MADE READY ON... *24.11.2017*