

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

**CORAM : Shri Vijai Pratap Singh,  
Hon'ble Member (J)**

**C.P. (I.B.) No.209/KB/2017**

An application under section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

**In the matter of:**

J.J. Plastalloy Private Ltd., a company registered under the Companies Act, 1956 with CIN: U24139UP1995PTC017711 and having its registered office as well as Office for Correspondence at A-Z, Badshah Bagh Colony, Maldahiya, Varanasi-221002, Uttar Pradesh;

...**Applicant/ Operational Creditor**

-Versus-

Balaji Polytex Industry Private Ltd., a company registered under the Companies Act, 1956 with CIN No.U24139UP1995PTC017711 and having its registered office at 40/4, Strand Road, 2<sup>nd</sup> floor, Kolkata-700001;

...**Corporate Debtor**

**Counsels on Record:**

- |                                   |                                       |
|-----------------------------------|---------------------------------------|
| 1. Ms. Sarada Hariharan, Advocate | ] For Applicant/ Operational Creditor |
| 1. Mr. Prasenjit Burman, Advocate | ] Respondent/Corporate Debtor         |

Date of pronouncing the order: July 31, 2017

**ORDER**

This Company Petition has been filed by the Operational Creditor, J.J. Plastalloy Private Limited under section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to

Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process under the Code. The Identification Number of the applicant, J.J.Plastalloy Private Ltd. is U24139UP1995PTC017711. The petitioner has filed this petition on the basis of operational debt due on the Corporate Debtor, M/s. Balaji Polytex Industry Private Limited, whose Identification Number is U24139UP1995PTC017711.

Brief facts of the case are that the Operational Creditor, J.J.Plastalloy Private Ltd. supplied goods worth Rs.68, 28,888/- to the Corporate Debtor through nine invoices raised from 9<sup>th</sup> October, 2013 till 11<sup>th</sup> February, 2014. A sum of Rs.28,13,706/- remains outstanding unpaid amount, on which the Operational Creditor has claimed interest @24% per annum till date of payment. The applicant has stated that the Corporate Debtor has subsequently admitted its dues in respect of principal amount of Rs.28, 13,706/- by its E-mail dated 18.09.2014 and further on 16<sup>th</sup> November, 2014, which are annexed from page nos. 15 to 16 with the petition. The alleged mail indicates that the Corporate Debtor has made a reply that he is in the process of getting funds within a short period of time and assured that he will clear off the due amount of Rs.28, 13,706/- as early as possible. This e-mail was sent on 16<sup>th</sup> November, 2014 at 12.36 pm. The petitioner has stated that against the total supplies made by the Operational Creditor to the Corporate Debtor, total invoice amount was Rs.68,28,888/-, out of which the Corporate Debtor has paid a sum of Rs.40,11,182/- and further he has been granted a discount of Rs.4,000/- by the Operational Creditor.

The Corporate Debtor has failed to make payment of the balance amount of invoice value i.e., Rs.28, 13,706/- (excluding interest). The Operational Creditor has also stated that the contractual rate of interest on the unpaid amount of the bill is @24% per annum. The Operational Creditor has further stated that the Corporate Debtor, M/s. Balaji Polytex Industry Private Limited has made the part payment of Rs.40, 11,182/- on different dates. The details of part payments made on different dates are confirmed by the ledger account details maintained by the Corporate Debtor as sent by them to the Operational Creditor along with their E-mail dated 18<sup>th</sup> September, 2014, annexed as Annexure-II to the petition.



The copy of the e-mail dated 18<sup>th</sup> September, 2014 is annexed with the petition (page no.16), which shows that the Corporate Debtor, Balaji Polytex Industry Private Ltd. has sent the balance confirmation mail to the Operational Creditor on 18<sup>th</sup> September, 2014 at 5.28 pm.

The Corporate Debtor has also attached the copy of ledger book account of Operational Creditor maintained by him and it is further mentioned in the mail that as per his books of record, the balance due amount as on date payable is Rs.29,13,706/- (page 16 of the petition). Copy of the ledger account of the Corporate Debtor which was annexed with the balance confirmation letter dated 18.09.2014 is at page 17 of the petition.

This copy of the ledger account of the Corporate Creditor wherein every credit and debit entries have been made up to 20.09.2014 shows that outstanding balance of Operational Creditor up to 20.09.2014 was Rs.29,13,706/-. The Operational Creditor has stated that Rs.1 lakh was further paid by the Corporate Debtor, Balaji Polytex Industry Private Ltd. on 29.09.2014. So, on the date of presentation of the petition, the total due principal amount was Rs.28, 13, 706/- and the above statement is further corroborated by the mail sent by the Corporate Debtor on 16<sup>th</sup> November, 2014.

The Operational Creditor has also attached the copy of all the tax invoices which are part of Annexure-I (page 18 to 26) of the petition.

The petitioner has also filed the copy of the Board Resolution which is Annexure-II (page 27) of the petition, which shows that the Board of Directors of the Operational Creditor has authorised Shri Jagdish Jhunjunwala, Managing Director to initiate Corporate Insolvency Resolution Process against the Corporate Debtor, Balaji Polytex Industry Private Ltd.

The Managing Director of the Operational Creditor has also filed an affidavit, which is Annexure-IV of the petition, wherein the Operational Creditor has certified the contents of the petition along with the documents filed with the petition. In the affidavit, the Petitioner has also given the details in respect of date of order, date of invoice and payment due date in a chart form (page 85) of the



petition, which shows that the total invoice value of the goods supplied by the Operational Creditor was Rs.68, 28,888/- and all the nine invoices have been annexed by the petitioner as Annexure-I. The petitioner has also given the details of part payment made by the Corporate Debtor in a chart form (page nos. 87 and 88) of the petition, which shows that the Corporate Debtor has made part payment of Rs.40, 11,182/- to the Operational Creditor. It is also mentioned in the affidavit that after giving discount of Rs.4, 000/-, a sum of Rs.28, 13,706/-, remains due, which the Corporate Debtor has failed to pay. On the outstanding amount, the petitioner has also claimed contractual rate of interest @24% per annum.

The petitioner has also stated that the last part payment of Rs. 1 lakh has been made by the Corporate Debtor on 29.09.2014, and the entry of the payment is in the ledger account of the Operational Creditor. In the affidavit, the Operational Creditor has mentioned that no further payment was made by the Corporate Debtor after 29<sup>th</sup> January, 2015. The Corporate Debtor acknowledged in writing that they are in the process of getting funds within a short period of time and would clear the outstanding amount of Rs.28, 13,701/- as early as possible.

The petitioner has stated that on 27.09.2013, he sent a legal notice on the Corporate Debtor through his advocate but when no reply was received by the Corporate Debtor, then the Applicant/ Operational Creditor had filed Criminal complaint under sections 406 and 420 of the I.P.C. before the Additional Chief Judicial Magistrate , Varanasi and the said complaint is pending and no order has been passed till date. The petitioner has stated that copy of the legal notice dated 29<sup>th</sup> January, 2015 is annexed as Annexure II with the petition. The petitioner has also stated in the affidavit that on 27<sup>th</sup> September, 2016, he had sent a demand notice of Rs.45,26,840/- for payment in respect of supplies made to the Corporate Debtor on account of admitted outstanding payment of Rs.28,13,706/- along with the accrued interest thereon as calculated up to 20<sup>th</sup> September, 2016.

The petitioner has further stated in the affidavit that the Corporate Debtor through its Advocate issued a reply dated 19<sup>th</sup> November, 2016 making baseless



allegation regarding quality of goods supplied. It was, *inter alia*, falsely claimed on behalf of the Corporate Debtor that the applicant assured that it would adjust the bills by issuing credit notes and discounts to the tune of Rs.25,00,000/-. No complaint whatsoever about the quality of the said goods had been raised by the Corporate Debtor prior to receiving of the said legal notice. Therefore, the question of any adjustment by the Operational Creditor does not and cannot arise. The petitioner claimed that such allegations by the Corporate Debtor are an afterthought and made *mala fide*. Copies of the said notice dated 27<sup>th</sup> September, 2016 and reply dated 19<sup>th</sup> November, 2016 have been annexed as part of Annexure II to the application.

The petitioner has also filed the copy of demand notice Dt.26<sup>th</sup> December, 2016 issued by him, against the Corporate Debtor on the prescribed format as per Insolvency & Bankruptcy Code 2016, annexed as Annexure 1 (page no.12 to 14) of the petition.

The petitioner has also annexed the copy of the reply of notice sent by Corporate Debtor, received by him dated 17<sup>th</sup> January, 2017. In the reply, the Corporate Debtor has stated that he has received the notice Dt.26<sup>th</sup> December on 7<sup>th</sup> January, 2017 regarding the claim of Rs.28,13,706/- as an unpaid amount, on account of 9 invoices raised between 9<sup>th</sup> October, 2013 to 11<sup>th</sup> February, 2014.

The petitioner has stated that at no prior point was any dispute raised as regards the entitlement of the applicant to its dues. The Corporate Debtor has taken no steps whatsoever in relation to its purported dissatisfaction with the said goods. The petitioner has further alleged that the Corporate Debtor belatedly has taken such a stand to avoid liability of payment of its outstanding dues. The petitioner has submitted that after receiving the said demand notice under the Insolvency & Bankruptcy Code, 2016, the Corporate Debtor has failed to bring to the notice of the Operational Creditor, either (a) existence of any dispute or (b) record of the pendency of any suit or (c) arbitration proceedings filed before the receipt of such notice or (d) invoice in relation to such dispute regarding



repayment of the unpaid operational debt. Therefore, the application filed by him for initiation of Corporate Insolvency Resolution Process deserve to be admitted.

The petitioner has filed a petition under section 9 of the Insolvency & Bankruptcy Code, 2016. The petitioner has annexed the copy of the notice sent on the Corporate Debtor, annexed as Annexure I (page nos.12 to 14) of the petition, which shows that petitioner has sent the demand notice regarding unpaid operational debt on the required proforma as prescribed under the I.B.Code, 2016. But the petitioner has not filed any document showing the despatch and receipt of said notice. The petitioner has filed the copy of reply received by him in response to the notice dated 26.12.2016 issued under the I.B. Code, 2016. In the reply, the Corporate Debtor has stated that he has raised the dispute about the quality of goods supplied but in response to that, no reply has been received by them. It is further mentioned in the reply that credit note/ trade discount to the tune of Rs.25 lakhs was to be issued by the supplier/operational creditor on account of differential quality of goods but no response was received by them.

Keeping in view of the notice under the I.B.Code, 2016 and reply issued by the Corporate Debtor, it is clear that notice issued under I. B. Code was issued by the Operational Creditor, which was duly received by the Operational Debtor. But the Corporate Debtor has stated that out of the said demand of outstanding dues, Rs.25 lakhs was to be adjusted through credit note, on account of trade discount and differential quality of goods supplied by the applicant/ Operational Creditor.

On the basis of documents filed by the petitioner, it is clear that Rs.28, 13,706/- was due on the Corporate Debtor on account of unpaid amount of invoice raised by the Operational Creditor. It is also evident that the Corporate Debtor has acknowledged the debt amount by sending the confirmation e-mail to the Operational Creditor on 16.11.2014, wherein the Operational Debtor has stated that he is in the process of getting funds and the Corporate Debtor also undertook to clear outstanding dues at the earliest. Thus, it is clear that up to



16.11.2014, the Corporate Debtor had not raised any claim/objection regarding the differential / substandard quality of goods supplied by the Operational Creditor. In the mail dated 16<sup>th</sup> November, 2014, the Corporate Debtor has acknowledged the balance amount of Rs.28, 13,706/- due on him.

On this basis, it is clear that the Corporate Debtor has acknowledged the balance amount of the invoice value was Rs.28, 13,706/- .The petitioner has also annexed the copy of all the invoices which were issued at the time of supply of goods to the Corporate Debtor. The petitioner has also filed the copy of bank statement, Annexure-III (page 59 to 81) of the petition. it is clear that up to 16.11.2014, there was no dispute regarding sub-standard supply of goods/ differential quality of goods supplied to the Operational Debtor and the Operational Debtor has clearly sent the mail to the Operational Creditor that he is arranging the funds and he will make the payment of balance amount of Rs.28,13,706/- at the earliest. So, it is clear that the alleged dispute has been raised by operational debtor only after receiving the legal notice received in a criminal case sent by the operational creditor.

In reply to the notice under I.B. Code, 2016 dated 26.12.2016 the Operational Debtor has mentioned that he has received the notice issued under I.B. Code, 2016 dated 26.12.2016 on 7<sup>th</sup> January, 2017 and as per provisions of section 8(2) of the I.B. Act, 2016, within 10 days, after receipt of the demand notice, he brought to the notice of the Operational Creditor regarding existence of a dispute. Here the petitioner has not filed any document to show the exact date of receipt of notice dated 26.12.2016 but the Corporate Debtor has himself admitted this fact that he has received the notice dated 26.12.2016 on 7<sup>th</sup> January, 2017. It also appears from the reply filed by the Corporate Debtor that he has sent reply of the Operational Creditor's notice on dated 17<sup>th</sup> January, 2017, i.e. within 10 days of the receipt of the notice.

In this case, on the basis of mail sent by the Corporate Debtor dated 16.11.2014 and earlier mail dated 18.09.2014, it is clear that there was no dispute up to 16.11.2014 regarding the balance amount payable to the



Operational Creditor on account of supply of goods made through 9 invoices. The entire dispute, which the Operational Debtor has referred in his reply, appears to be dispute raised by the Operational Debtor, after receiving the legal notice DT 29<sup>th</sup> Jan2015, sent by the Operational Creditor. The Operational Creditor has filed an affidavit, wherein he has acknowledged this fact that he had issued legal notice on the Operational Debtor on 29<sup>th</sup> January, 2015 but no reply was sent by corporate debtor, then he filed criminal complaint under section 406 and 420 of I.P.C. before Additional Judicial Magistrate , Varanasi, which is still pending.

On the basis of the affidavit filed by the Operational Creditor, it appears that even though there was no dispute up to 16.11.2014 regarding the balance amount i.e. 28, 13,706/- against the supply of goods through 9 invoices raised against the Corporate Debtor, and alleged dispute has been subsequently raised while making reply to the legal notice dated 29.01.2015 received by the Corporate Debtor and on account of filing of criminal complaint under sections 406 and 420 of I.P.C. against the Operational Debtor. Therefore, it is clear that there was no dispute regarding the invoice value and balance amount due up to 16<sup>th</sup> Nov 2014. It is also clear that alleged dispute has been subsequently raised after getting the legal notice of initiation of criminal action by the Operational Creditor.

The question which arises is whether the dispute which was raised subsequent to initiation of criminal proceeding by operational creditor will also come under the definition of existing dispute as defined under section 8(2)(a) of the I.B. Code, 2016?

In reference to the above, it is important to mention that the **existence of dispute as given in Sec 8(2)(a) OF I.B.Code 2016** has been clarified by the Hon'ble NCLAT in the case of Kirusa Software Private Ltd. V Mailbox Innovations Pvt Ltd. , IB Appeal No.6/2017, order dated 27<sup>th</sup> January, 2017.

The Hon'ble NCLAT in the above-mentioned case has held as under:



*"The true meaning of sub-section (2) (a) of Section 8 read with sub-section (6) of Section 5 of the 'I & B Code' clearly brings out the intent of the Code, namely **the Corporate Debtor must raise a dispute with sufficient particulars**. And in case a dispute is being raised by simply showing a record of dispute in a pending arbitration or suit, the dispute must also be relatable to the three conditions provided under sub-section (6) of Section 5 (a)-(c) only. The words 'and record of the pendency of the suit or arbitration proceedings' under sub-section (2) (a) of Section 8 also make the intent of the Legislature clear that disputes in a pending suit or arbitration proceeding are such disputes which satisfy the test of subsection (6) of Section 5 of the 'I & B Code' and that such disputes are within the ambit of the expression, 'dispute, if any'. The record of suit or arbitration proceeding is required to demonstrate the same, being pending prior to the notice of demand under sub-section 8 of the 'I & B Code'.*

*It is a fundamental principle of law that multiplicity of proceedings is required to be avoided. Therefore, if disputes under sub-section (2)(a) of Section 8 read with sub-section (6) of Section 5 of the 'I & B Code' are confined to a dispute in a pending suit and arbitration in relation to the three classes under subsection (6) of Section 5 of the 'I & B Code', it would violate the definition of operational debt under sub-section (21) of Section 3 of the 'I & B Code' and would become inconsistent thereto, and would bar Operational Creditor from invoking Sections 8 and 9 of the Code.*

*Sub-section (6) of Section 5 read with sub-section (2) (a) of Section 8 also cannot be confined to pending arbitration or a civil suit. It must include disputes pending before every judicial authority including mediation, conciliation etc. as long there are disputes as to existence of debt or default etc., it would satisfy subsection (2) of Section 8 of the 'I & B Code'.*

***Mere raising a dispute for the sake of dispute, unrelated or related to clause (a) or (b) or (c) of Subsection (6) of Section 5, if not raised prior to application and not pending before any competent***



*court of law or authority cannot be relied upon to hold that there is a 'dispute' raised by the corporate debtor. The scope of existence of 'dispute', if any, which includes pending suits and arbitration proceedings cannot be limited and confined to suit and arbitration proceedings only. It includes any other dispute raised prior to Section 8 in this in relation to clause (a) or (b) or (c) of sub-section (6) of Section 5. It must be raised in a court of law or authority and proposed to be moved before the court of law or authority and not any got up or malafide dispute just to stall the insolvency resolution process.*

*Thus, it is clear that while sub-section (2) of Section 8 deals with "existence of a dispute", sub-section (5) of Section 9 does not confer any discretion on adjudicating authority to verify adequacy of the dispute. It prohibits the adjudicating authority from proceeding further if there is a genuine dispute raised before any court of law or authority or pending in a court of law or authority including suit and arbitration proceedings. Mere a dispute giving a colour of genuine dispute or illusory, raised for the first time while replying to the notice under Section 8 cannot be a tool to reject an application under Section 9 if the operational creditor otherwise satisfies the adjudicating authority that there is a debt and there is a default on the part of the corporate debtor.-*

*----- The onus to prove that there is no default or debt or that there is a dispute pending consideration before a court of law or adjudicating authority shift from creditor to debtor and operational creditor to corporate debtor.*

*The requirement under sub-section (3)(c) of Section 9 while independent operational creditor to submit a certificate from the financial institution as defined in sub-section (4) of section 3 including Schedule Bank and public financial institution and like which is a safeguard prevent the operational creditor to bring a non-existence or baseless claim, similarly the adjudicating authority is required to examine before*



***admitting or rejecting an application under Section 9 whether the 'dispute' raised by corporate debtor qualify as a 'dispute' as defined under sub-section (6) of Section 5 and whether notice of dispute given by the corporate debtor fulfilling the conditions stipulated in sub-section (2) of Section 8 of I&B Code, 2016".***

It is therefore, clear that mere raising a dispute for the sake of dispute, unrelated or related to clause (a) or (b) or (c) of Sub-section (6) of Section 5, if not raised prior to application and not pending before any competent court of law or authority cannot be relied upon to hold that there is a 'dispute' raised by the corporate debtor.

In this case, the Operational Creditor has filed an affidavit, wherein it is stated that even after receipt of the balance confirmation mail sent by the Corporate Debtor, no payment was made by the Corporate Debtor. Then he sent a legal notice dated 29.01.2015 on the Corporate Debtor threatening to initiate criminal case under sections 406 and 420 of I.P.C. The Operational Creditor has also stated in the affidavit that even after sending the legal notice, when the Corporate Debtor failed to make payment then he has filed criminal complaint under section 406 and 420 of I.P.C. against the Corporate Debtor, which is still pending in the Court of Additional District Magistrate (Tenth), Varanasi. The legal question that arises for determination is whether pending of a criminal case will also be covered under the definition of dispute given in clause (a), (b), (c) of sub-section (6) of section 5 and sub-section (2) of section 8 of the I.B. Code.

It is pertinent to mention that both in the case of Rumi Dhar -vs- State of West Bengal [2009] 6 SCC page 364, the Hon'ble Supreme Court has held that **"a civil proceeding and criminal proceeding can proceed simultaneously and the bank is entitled to recover the amount of loan given to the Debtor. If in connection with the obtaining of the said loan, criminal offences have been committed by the persons accused thereof including the Officers of the bank, criminal proceedings would also indisputably be maintainable"**.



In the case of state of Orissa -vs- Ujjal Kr. Burdhan [2012] 4 SCC page 547, the Hon'ble Supreme Court has held that **"an act can result both in civil and criminal liability**. Hence, merely because of an act of appellant has civil liability that does not mean that it cannot also have criminal liability.

On the above basis it is clear that, a criminal and a civil liability are independent of each other which can be simultaneously imposed for the alleged act of default, if the petitioner has also filed a criminal complaint in a Court and it is still pending, then on that basis it cannot be inferred that the above criminal proceedings shall be construed as an existing dispute under sub-section (3) (c) of section 9 of I.B. Code 2016.

In the case of Kirusa Software Private Ltd. -versus- Mailbox Innovation Private Ltd. in IB Appeal No.6/2017, order dated 27<sup>th</sup> January, 2017, the Hon'ble NCLAT has held that the 'term dispute' has been defined in sub-section (2) of clause (v) of section 5 of I.B. Code, 2016. The dispute as defined in the Code is given below for ready reference.

**'Dispute' includes a suit or arbitration proceedings relating to (a) the existence of the amount of the debt, (b) the quality of the goods or services and (c) the breach of the representation or warranty.**

Admittedly, in this case, the Operational Debtor has for the first time raised the dispute on the basis of sub-standard quality of goods, only after receiving the legal notice in a criminal case, which was issued against him for initiation of criminal action under sections 406 and 420 of the I.P.C. Before making such reply, the Operational Debtor has himself admitted the entire claim of the Operational Creditor and sent the balance confirmation mail on 18.09.2014 and thereafter on 16.11.2014. It is pertinent to mention that in mail Dt. 16<sup>th</sup> Nov 2014 corporate debtor attached the copy of ledger account of the Operational Creditor maintained in his account books. Therefore, it is clear that there was no dispute regarding the quality of goods or outstanding debt amount regarding the supply of goods and the Corporate Debtor has himself acknowledged the due debt amount in his mail message sent to the Operational Creditor. Therefore reply



made in a criminal case as a defence, will not be covered under the definition of existing dispute in sub-section (3) of section 9 of I.B. Code.

On the basis of documents filed by the petitioner, it is clear that Rs.28, 13,706/- was due on the Corporate Debtor on account of the invoice raised by the Operational Creditor against the Corporate Debtor against the supply of goods. It is also proved that the Corporate Debtor has sent the balance confirmation mail to the Operational Creditor on 16.11.2014, wherein the corporate debtor has stated that he is in the process of getting funds and he also undertook to clear outstanding dues at the earliest. Therefore, it is clear that the Corporate Debtor had acknowledged the balance due amount i.e. Rs.28, 13,706/-

The petitioner has proposed the name of Mr. Abhijeet Jain, as Insolvency Professional, whose particulars are given below:

Name	: Mr. Abhijeet Jain, Company Secretary
Address	: Diamond Chambers, 4, Chowringhee Lane, Block-I, 4 <sup>th</sup> floor, Room No.4M, Kolkata – 700 016
Reg. No.	: IBBI/IPA-002/IP-00178-2016-17/1308
Email	: ajasso.abhijeet@gmail.com

Mr. Abhijeet Jain, has submitted his consent in Form-2 under Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.I.R.P. has filed declaration that no disciplinary proceedings are pending against him.

On the above basis, it is clear that the Corporate Debtor has committed default and sum of Rs.28, 13,706/- are due on him. Therefore, the Operational Creditor has filed an application under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process, which deserves to be allowed.

### ORDER

The petition filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process and declare a moratorium and public announcement as stated in section 13 of IBC 2016.

Moratorium is declared for the purposes referred to in section 14 of the Insolvency & Bankruptcy Code, 2016. The I. R. P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under section 15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

Moratorium under section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

*(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 (54 of 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.*

*(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."*

Necessary public announcement as per section 15 of the IBC, 2016 may be made.

Mr. Abhijeet Jain, Diamond Chambers, 4, Chowringhee Lane, Block-I, 4<sup>th</sup> floor, Room No.4M, Kolkata – 700 016, Registration No. is IBBI/IPA-002/IP-00178-2016-17/1308 is appointed as Interim Resolution Professional for ascertaining the particulars of creditors, convening a Committee of Creditors for evolving a resolution plan and submit the resolution passed by the Committee of Creditors.

Let the copy of the order be sent to the Applicant / Financial Creditor as well as Corporate Debtor and I.R.P.

List the matter on 16<sup>th</sup> Aug 2017 for submission of progress report by I.R.P.

Sd/-  
(Vijai Pratap Singh)  
Member (J)

Signed on this, the 31st day of July, 2017