

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

CP(IB).No.136/17

Under Section 9 of Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF S.F. DYES

VS

INDUS FILA LIMITED

Order delivered on: 20th February, 2018

Coram: Hon'ble Shri RatakondaMurali, Member (Judicial)

Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

BETWEEN

S.F Dyes,

**1012, Barton Center, 84, M.G Road,
Bengaluru-560001.**

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Operational Creditor

AND

**Indus Fila Limited,
285, 37th KM Stone,
Tumkur Road, T.Begur,
Nelamangala,
Bangalore-562123**

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Corporate Debtor

Parties Present: For Petitioner:

Mr. G.Prashanth, Pramog Associates, #
12/3A, Yamuna Bai road, Madhavnagar,
Bengaluru-560001, Advocate and
Authorised Representative for Petitioner

For Corporate Debtor:

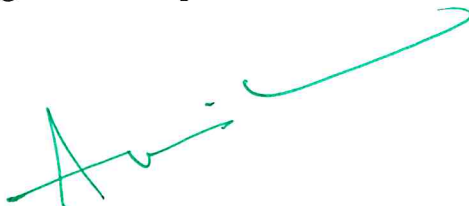
Mr. B.N Prakash, Lawyers Inc. Advocates &
Solicitors, No.15/2, V.S.Raju Road, 12th
Block, Kumara Park West, Bengaluru-
560020 – Advocate and Authorised
Representative for Respondent.

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial) - Author

Heard on: 24/11/2017, 01/12/2017, 14/12/2017, 22/12/2017, 10/01/2018,
06/02/2018 & 09/02/2018

ORDER

This application is filed on behalf of Operational Creditor under Section 9 of Insolvency and Bankruptcy Code, 2016 to initiate Insolvency Resolution Process against the Corporate Debtor.




Application is in Form 5 of 6(1) of I & B Code (Application to Adjudicating Authority) Rules 2016. It is the case of Operational Creditor that, Corporate Debtor fell due a sum of **Rs. 76,83,308/-**.

The case of Operational Creditor is that, a Demand Notice in Form No.3 along with Notice of Invoice in Form 4 was issued to Corporate Debtor dated 25th September 2017. The Operational Creditor has also filed invoices shown at pages 136 to 138 of the annexures appended to the Application. The invoices are raised against Corporate Debtor.

The Operational Creditor has filed certificate issued by Bank of Baroda certifying that, no credits to the Account of Operational Creditor received from Corporate Debtor from 25th September 2017 to 10th October 2017. It is shown at page 130 alongwith Bank Statement from pages 121 to 123.

The Operational Creditor has named **Mr. Pravin R. Navandar**, Registration No. **IBBI/PA-001/IP-P00008/2016-17/10027**, residing at #D-519, 520 Neelkant Business Park, Nathani Road, Vidyavihar West, Mumbai-400086, **Email:Pravin@prnco.in** as Interim Resolution Professional and the said Interim Resolution Professional in his letter dated 12th October 2017 has expressed his willingness for the appointment and also certified that there are no disciplinary proceedings pending against him.

The Counsel for Petitioner/Operational Creditor has filed Memo dated 10th January 2018 to the effect that, Demand Notice in Form No.3 was served on the Corporate Debtor by Post and a reply was given by the Corporate Debtor on 4th October 2017. In the Memo it is also stated that, Rule 6(2) of I & B Code has been complied.

A notice was ordered to the Corporate Debtor. In response to the Notice a Memo dated 9th February 2018 was filed by the authorised representative of the Respondent / Corporate Debtor through its Counsel in the Tribunal admitting liability to the Operational Creditor of **Rs 76,83,308/-**. Further, the Corporate Debtor also admitted that Company committed default and that it has no objection for admitting the Application and to initiate Corporate Insolvency Resolution Process under Section 9 of I & B Code against it.

Since the Respondent / Corporate Debtor admitted the liability and also the default. Therefore, the Petition is to be admitted and order of Moratorium under Section 14 of the Code is to be passed.

In the result, this Petition is admitted under section 9 of I & B Code, declaring Moratorium for the purpose referred under Section 14 of the Code with the following directions:-

- i. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- ii. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- iii. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- iv. That the order of moratorium shall have effect from 20th February, 2018 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, whichever is earlier.
- v. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the code.
- vi. That this Bench hereby appoints Mr. **Mr. Pravin R. Navandar**, Registration No. **IBBI/IPA-001/IP-P00008/2016-17/10027**, residing at #D-519, 520 Neelkant Business Park, Nathani Road, Vidyavihar West, Mumbai-400086, **Email:Pravin@prnco.in** as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL