

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

C.P. No. 1208/I&BP/2017

Under section 9 of the IBC, 2016

In the matter of  
Krupa Polymers (India) Pvt. Ltd.  
.... Petitioner

v/s.

Vitthal Distilleries Ltd. .... Respondent

Order delivered on: 05.02.2018

Coram: Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)  
Hon'ble Mr. V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Amit Tungane, Advocate  
For the Respondent : None present

*Per V. Nallasenapathy, Member (Technical)*

**ORDER**

This Company Petition is filed by Krupa Polymers (India) Pvt. Ltd. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Vitthal Distilleries Ltd (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 10.6.2016 in making payment to the extent of ₹ 5,15,720 by invoking the provisions of Sections 8 and 9 of I & B Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.

2. On the placing of orders by the Corporate Debtor, the Petitioner supplied pet bottles on 3.12.2015, by raising Invoice No. K0561 for ₹2,68,012 and Invoice No. K0562 for ₹2,47,708, aggregating to ₹5,15,720.

3. The Petitioner has issued demand notice on 11.4.2017, demanding a sum of ₹2,62,012 in respect of invoice No. K0561 and ₹2,47,708 in respect of invoice No. K0562, as stated in the para 3 of the Demand Notice. In the said Demand Notice, in respect of invoice K0561 the amount demanded was ₹2,62,012 only, instead of

₹2,68,012 and in respect of invoice No. K0562 the correct amount of ₹2,47,708 is demanded. Here, the total works out to ₹5,09,720.

3. However, In the penultimate Para of the Demand Notice, a sum of ₹5,15,720 was demanded. In Form No.5 also a sum of ₹5,15,720 is shown as the amount claimed in default as on 10.06.2016.

4. Thus, it is very clear that the amount mentioned in para 3 of the demand notice is wrong and not in consonance with the demand made in the penultimate para of the demand notice, hence there is a discrepancy in the Invoice amount specified in the Demand Notice.

5. Further, even though the goods were supplied on 3<sup>rd</sup> December 2015, it seems that the Operational Creditor has not issued any correspondence seeking the payment of the balance due till 11.4.2017, the date on which the demand notice was issued by the Operational Creditor. It is quite surprising that the Operational Creditor remained silent for 17 months. The Corporate Debtor is also absent and not appeared before this Bench.

5. In view of the above, this petition is dismissed with liberty in accordance with law.

6. The Registry is directed to communicate a copy of this Order to the parties.

Sd/-

**V. NALLASENAPATHY**  
Member (Technical)

Sd/-

**B. S.V. PRAKASH KUMAR**  
Member (Judicial)