

BEFORE THE COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 64/ I & BP/NCLT/MB/MAH/2017

CORAM:

Present:

M.K.SHRAWAT
Member(Judicial)

In the matter of under Section 8 and 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016.

BETWEEN

M/s. Bharat Trading Corporation
V/s.

.....Applicant/ Operational

M/s. Wind-Ways Packaging Pvt. Ltd.

.....Corporate Debtor

For Applicants: Mr. Nithish Bangera, Practising Company Secretary of the Applicant.

For Corporate Debtor: None present.

ORDER

Heard and pronounced on 07-04-2017

1. The Petitioner is an Operational Creditor. In that capacity submitted the Petition under consideration on 27-03-2017 under Insolvency and Bankruptcy Code 2016 (Act No. 31 of 2016) (herein below referred as The Code) before NCLT Mumbai Branch. The "Operational Corporate Debtor" is M/s. Windways packaging Pvt. Ltd. , Hanuman Silk Mills Compound, Opp- Huma Multiplex, Off LBS Marg, Kanjurmarg(West),Mumbai. The Petitioner/ Operational Creditor raised Sales Invoice towards supply of 18,618 Kg. of fevicol for an amount of Rs.37,43,983/-. As per the Petitioner the Debtor had defaulted in payment of the said amount
2. From the Petition under consideration it transpires that several Sales Invoices were raised for the period 06-01-2015 to 31-03-2016. A confirmatory e-mail confirming the outstanding amount of the "Corporate Debtor" is dated 27-06-2016. A confirmation of account has also been issued on 1st April 2016 by the said "Debtor"
3. It is affirmed by the Petitioner that the requisite condition laid down under Section 8(1) of I&B Code 2016, has also been complied with. On 2nd February 2017 a Notice of Demand by the Operational Creditor to the Corporate Debtor, pursuant to Rule 5 of Insolvency and Bankruptcy Code 2016, has been issued, affirmed by an Affidavit of Service of notice placed on record.
4. In the light of the above assertions of financial transaction the Petitioner has prima-facie established that there is an existence of "Debt" as defined under Section 3(11) of The Code 2016.

5. On perusal of the documents annexed with the Petition as also after hearing the submissions of the Ld. Representative of the Petitioner herein below it is ordered as under:-

"ORDER"

- a) The Petition is admitted as prescribed U/S 9(5) (i) of The Code for invocation of the proceedings as prescribed.
- b) The Petitioner has not proposed any name of an "Interim Resolution Professional". It is hereby directed to propose the name on or before 20th April 2017, along with the Certificate that no disciplinary proceeding is pending against proposed Resolution Professional.
- c) 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 herein; 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 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."
- d) For further orders matter is listed on 26th Apr. 2017.

Date: 07-04- 2017.

Sd/-
M.K. SHRAWAT
MEMBER (JUDICIAL)