

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

**CP(IB)No.133/BB/17**

**Under Section 9 of the Insolvency and Bankruptcy Code, 2016**

**IN THE MATTER OF**

**KHEMKA PLYLAND**

**VS**

**ZED FABS INDIA PRIVATE LIMITED**

**Order delivered on: 2<sup>nd</sup> February, 2018**

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

**KHEMKA PLYLAND**

No.207, 1<sup>st</sup> Main Road, 60 feet,  
Shivanagar, West of Chord Road,  
Bangalore-560072

**ZED FABS INDIA PRIVATE LIMITED**

No.31/1, 2<sup>nd</sup> Main Road,  
Vyalikaval, Bangalore-560003

For the Petitioner (s)	1. Mr.Abhijit Atur, Advocate
For the Respondent(s)	1. Ms.Sneha Nagaraj, Advocate

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

Heard on: 23.11.2017, 1.12.2017, 14.12.2017, 15.01.2018, 24.1.2018

**ORDER**

This Petition is filed by operational creditor namely M/s.Khemka Plyland stating that the Corporate Debtor Company M/s.Zed Fabs India Private Limited has defaulted in repaying a sum of Rs.4,05,338/- and hence this Petition 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 seeking for admission of this petition, declaring moratorium on the Corporate Debtor Company, direction for public announcement of initiation of corporate insolvency process and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.




The Applicant M/s.Khemka Plyland has filed the present application. The Applicant is a proprietorship concern. The Registered office is situated at No.207, 1<sup>st</sup> Main Road, 60 Feet Road, Shivajinagar, West of Chord Road, Bangalore-560072.

The Corporate Debtor is M/s.Zed Fabs India Private Limited incorporated on 11<sup>th</sup> January, 2011 bearing CIN No:U28113KA2011PTC056591. The Authorised Share Capital of the Corporate Debtor is Rs.10,00,000/- and Paid-Up Share Capital of the Corporate Debtor is Rs.1,00,000/-. The Registered Office of the Corporate Debtor is No.31/1, 2<sup>nd</sup> Main road, Vyalikaval, Bangalore-560003.

The Petitioner/Operational Creditor has averred that it is a proprietorship concern engaged in the business of manufacture and distribution of plyland sheets, MDF and joint finger boards, doors, etc., The Corporate Debtor approached the Operational Creditor for supply of certain material and goods.

The Petitioner/ Operational Creditor has averred that the corporate debtor placed purchase orders for delivery of material on the basis of which the operational creditor delivered the material/goods and thereafter raised bills for payment.

It is further averred that after receipt of goods and raising of bills by the operational creditor, the corporate debtor made partial payments of the bills raised by the operational creditor. However, the corporate debtor has committed default despite several requests and reminders and failed to make full payment of dues to the Operational Creditor.

The operational creditor has enclosed the copies of Purchase Orders issued by the corporate debtor at Annexure-C colly and the Invoices raised by the operational creditor on the corporate debtor at Annexure-C colly of the application. The value of service provided by the operational creditor is valued at Rs.4,05,338/-. The computation of working of liability/debt owned by the corporate debtor to the operational creditor is as follows

Invoice No.	Date of Invoice	Invoice Amount(A)	Amount Paid (B)	Balance Due (A-B)
12124	12.7.2014	2,56,411/-	2,00,000/-	56,411/-

12145	16.7.2014	99,844/-	NIL	99,844/-
12150	17.7.2014	2,49,083/-	NIL	2,49,083/-
Total Amount Due				4,05,338/-

The Operational Creditor has issued a demand notice under Section 8 of the code to the corporate debtor on 11<sup>th</sup> August, 2017 to repay the outstanding of Rs.4,05,338/- and in the event it does not pay within ten days of receipt of notice, the Petitioner would initiate a corporate insolvency resolution process. It is further averred that the statutory notice under the code has been issued to the Corporate Debtor to its addresses and furnished the postal receipts.

The operational creditor has enclosed the statement of bank account from M/s.Bank of Baroda for the period from 1st April, 2014 to 4<sup>th</sup> November, 2017 stating that the operational creditor has not received any payment from the corporate debtor between the period from 1st April, 2016 to 4<sup>th</sup> November, 2017 in respect of the outstanding due i.e.,Rs.4,05,338/- payable by the corporate debtor. The operational creditor has also filed an affidavit in support of this application and the Advocate confirmed that, Operational Creditor has received payment of due amount.

The Operational Creditor has filed affidavit dated 14<sup>th</sup> November, 2017 that Operational Creditor had served a demand notice dated 11<sup>th</sup> August, 2017 under Section 8 of the Insolvency and Bankruptcy Code, 2016 on M/s.Zed Fabs India Private Limited(Corporate Debtor) and a period of 10 days has expired from the date of delivery of Demand Notice demanding payment and the Applicant/Operational Creditor has not received any payment or a notice of dispute regarding the pending amount from the corporate debtor.

The Counsel for Corporate Debtor has filed memo dated 15.1.2018 on behalf of the Corporate Debtor. It is stated in the memo that the Corporate Debtor admits the debt due to the Operational Creditor herein and it is further submitted that the Corporate Debtor is not in a position to make payments to the Operational Creditor or to any its other creditors due to the financial and operational difficulties being faced by the Corporate Debtor. The corporate Debtor is unable to sustain its business and despite various attempts to restructure






and revive the company/ business, It has become unviable and the company is thus, unable to pay its debts to various creditors.

The Operational Creditor has filed another memo dated 15<sup>th</sup> January, 2018 and has named Ms.Ramanathan Bhuvaneshwari, Registration No. IBBI/IPA-002/IP-N00306/2017-2018/10864, residing at No.C-006, Pioneer Paradise, 24<sup>th</sup> Main Road, 7<sup>th</sup> Phase, JP Nagar, Bengaluru-560078, Email: [bhoona.bhavan@gmail.com](mailto:bhoona.bhavan@gmail.com) as Interim Resolution Professional and the said Interim Resolution Professional in her letter has expressed her willingness for the appointment and also certified that there are no disciplinary proceedings pending against her. The eligibility certificate and acceptance to function as an Interim Resolution Professional has also been placed on record and is filed along with Memo dated 15<sup>th</sup> January, 2018. The proposed IRP has also filed affidavit dated 15<sup>th</sup> January, 2018 that the facts provided in Form-2 are true, accurate and complete.

On Perusal of the documents filed by the Applicant, it is evident that the Corporate Debtor defaulted in repaying the said amount. Evidently, it is established by the Operational Creditor that the nature of Debt is a "Operational Debt" as defined under section 5 (21) of the Code. It has also been established that there is a "default" as defined under section 3(12) of the code on the part of the Corporate Debtor. On the basis of the material on record the Applicant/Operational Creditor has established the claim apart the Corporate Debtor admit default and liability.

Accordingly, This Bench admits this Petition under Section 9 of the code declaring moratorium for the purposes referred to in 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 2<sup>nd</sup> 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 Ms.Ramanathan Bhuvaneshwari, Registration No. IBBI/IPA-002/IP-N00306/2017-2018/10864, residing at No.C-006, Pioneer Paradise, 24<sup>th</sup> Main Road, 7<sup>th</sup> Phase, JP Nagar, Bengaluru-560078, Email: [bhoona.bhavan@gmail.com](mailto:bhoona.bhavan@gmail.com) as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.

  
(ASHOK KUMAR MISHRA)

MEMBER, TECHNICAL

  
(RATAKONDA MURALI)

MEMBER, JUDICIAL