

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

CP (IB) No.138/BB/2017

UNDER RULE-6 OF I&B CODE.

IN THE MATTER OF M/S. BALAJI TIMBER DEPOT

AND

M/S. QUETZEL FURNITURE SYSTEMS PRIVATE LIMITED

Coram: 1. Hon'ble Shri.Ratakonda Murali, Member Judicial
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Order delivered on 18th December, 2017

For the Petitioner: S/Shri Kondisetty Kumar Dushyantha &
Hari Babu Thota, PCS.

For the Respondent : S/Shri Sandeep Mukherjee &
Sarita Fernandes, Directors.

BETWEEN:

M/s. Balaji Timber Depot,
No.16, New Timber Yard Layout,
Mysore Road,
Bangalore – 560 026.

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Petitioner

AND

M/s. Quetzel Furniture Systems Private Limited,
Survey No.6/2A, Ground Floor (Below Kanua),
Kaikondrahalli, Carmelaram Post,
Sarjapur Road, Bangalore – 560 035.

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Respondent

ORDER

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

The petitioner, M/s. Balaji Timber Depot, has filed this petition, which is a Operational creditor alleging that the Corporate Debtor M/s. Quetzel Furniture Systems Private Ltd., had defaulted in repaying a sum of Rs.13,41,900/- (Rupees thirteen lakhs forty one thousand and nine hundred only) which was due for supply of timber to the Corporate Debtor. This petition is filed under Section 9 of the Insolvency & Bankruptcy Code, 2016, seeking for admission of this petition, declaring moratorium on the Corporate Debtor Company, direction for public

announcement of initiation of Corporate Insolvency Resolution Process and appointment of Interim Resolution Professional as prescribed under the Code and Rules therein.

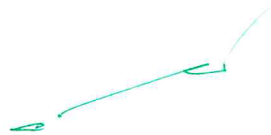
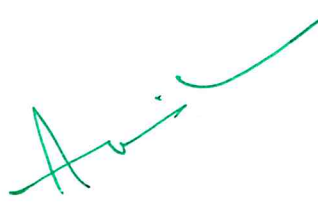
The case of the petitioner/corporate debtor is that it had supplied timber to the corporate debtor basing on its purchase order dated 03.09.2015 of the value of Rs.13,41,900/- (Rupees thirteen lakhs forty one thousand nine hundred only). The petitioner operational creditor has filed the purchase order dated 03.09.2015. The petitioner has furnished the details of invoice and the amount due by the corporate debtor. The particulars are contained in the letter dated 18.11.2017. The corporate debtor has also relied on the notice of demand issued to the corporate debtor dated 09.01.2016 and also notice dated 21.12.2015. The operational creditor has further relied on the demand notice issued in Form No.3, dated 03.11.2017 to the corporate debtor along with Form No.4.

The operational creditor has further relied on the Bank statement to the effect that no payment is received from the corporate debtor.

We have seen the account statement of Karnataka Bank Ltd., in respect of the petitioner company. The operational creditor has further relied on the ledger account of the corporate debtor maintained by the operational creditor which is standing in the name of Total Environment Woodwork Private Ltd.

It is stated in the affidavit filed in Form No. NCLT 6 to the Form No.5 that the name of the corporate debtor was originally the Total Environment Woodwork Pvt. Ltd., when invoices were raised. But, at present, the name of the corporate debtor is M/s. Quetzel Furniture Systems Pvt. Ltd.

The Directors of Corporate debtor have appeared before the Tribunal on 30.11.2017 and also on 07.12.2017. The Directors have filed a memo admitting the liability and also admitting the default. Both the Directors reported that they have no objection to initiate the Insolvency Resolution Process against the company.



The Operational Creditor has suggested the name of IRP to be appointed in this case.

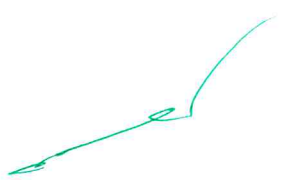
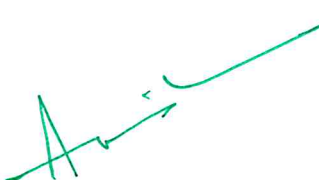
The particulars of IRP are as follows:

Shri Venkata Subbarao Kalva,
Practicing Company Secretary,
M. No: 17736 & CP No. 18667
E.Mail ID: subbaraocs@gmail.com
Regn. No. IBBI/IPA-002/IP-N00179/2017-18/10655
Flat No.123, Block No.14, Jevan Mitra,
LIC Apartments, J.P. Nagar, 1st Phase,
Bangalore, Karnataka – 560 078.

The Operational Creditor has filed the consent affidavit of the proposed IRP, who has given his consent in Form No.2. He has also furnished affidavit filed along with memo dated 07.12.2017. He has certified that there are no disciplinary proceedings pending against him either with the Board or ICSI Insolvency Professional agency.

Before admitting the application, the matter was listed on 30.11.2017. Two Directors of the Corporate Debtor Company were present. Again the matter was listed on 07.12.2017. The two Directors of the Corporate Debtor company were present and filed a memo admitting the liability and also committing default and have further stated that they have no objection for initiating Insolvency Resolution Process against the Corporate Debtor.

Before admitting the application, the Tribunal has to see whether the Operational Creditor has complied the provisions of Sections 8 and 9 of the Insolvency & Bankruptcy Code. The Operational Creditor has furnished invoices demanding payment and also filed affidavit. It has also filed the certificate from the Bank. It has also proposed the name of IRP whose details are given above. Admittedly, there is no repayment of unpaid operational debt and that the Directors of the Corporate Debtor themselves have appeared in person in the Tribunal and admitted the liability.



Therefore, the petition is admitted under Section 9 of the Code declaring moratorium for the purpose mentioned 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 18th December, 2017 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.

That this Bench hereby appoints Shri Venkata Subbarao Kalva, Practicing Company Secretary, M. No: 17736 & CP No. 18667, Regn. No. IBBI/IPA-002/IP-N00179/2017-18/10655 Flat No.123, Block No.14, Jevan Mitra, LIC Apartments, J.P. Nagar, 1st Phase, Bangalore, Karnataka – 560 078, E.Mail ID: subbaraocs@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