

**In the National Company Law Tribunal
Single Bench, Chennai**

TCP/262/(IB)/CB/2017

Under Section 9 of the IBC, 2016

In the matter of

Saravanaa Distributors Petitioner 1

Sri Devi Chemicals Petitioner 2

V/s

Lakshmi Apparels and Wovens limited

Order delivered on: 01.09.2017

For the Petitioners/OCs: A.G. Sathyanarayana, Advocate

For the Respondent/CD: R. Sidharth, Advocate

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

ORDER

1. Under Consideration is a Company Petition filed by Saravanaa Distributors and Sri Devi Chemicals (in short, '**Petitioners/Operational Creditors**') against Lakshmi Apparels and Wovens limited (in short, '**Respondent/Corporate Debtor**') under section 433 (e) and (f), 434 (i) (a) and 439 (i) (b) of the Companies Act, 1956 before the Hon'ble Madras High Court which has been transferred to this tribunal pursuant to the Companies (Transfer of Pending Proceedings) Rules, 2016. Now, pursuant to the Central Government notification number GSR 119(E) dated 07.12.2017, this petition needs determination as per the provisions of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**').

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. Shri A.G. Sathyanarayana, the learned counsel appearing on behalf of the petitioners/OCs submitted that both the Petitioners are Partnership firms carrying on the business of buying and selling of dyes and chemicals whereas the Respondent/CD is engaged in the business of processing, dyeing, printing of yarn and other textile fabrics of all kind and descriptions. It is submitted that, during the usual course of business, both the petitioners have sold and supplied dyes and chemicals to the Respondent and they have raised various invoices on the Respondent. The Respondent has been maintaining a running account with the petitioners and duly acknowledged all the invoices raised by the petitioners.
4. It is further submitted that both the petitioners, after making several requests to settle his dues and having waited for a long period of time for his legitimate dues, issued two statutory notices dated 01.08.2013 and 12.12.2013 under section 434 of the Companies Act, 1956, demanding the payment of Rs. 3,53,595/- towards the Petitioner 1 and Rs. 23,630 towards the Petitioner 2 and thus now claimed to be an Operational Creditor under the provisions of the IB Code 2016 and prayed

to initiate Corporate Insolvency Resolution Process against the Respondent/CD.

5. Shri R. Sidharth, the learned counsel for the Respondent/CD caused appearance and submitted that the Respondent Company is not running anymore. Moreover, he neither filed any counter nor resisted in relation to the appointment of IRP and declaration of moratorium against the corporate debtor and also submitted that he has no objection, if petition is admitted.
6. As per the submission of the counsel for the petitioners, the Petitioners have complied with all the requirements as stipulated under the provisions of the IB Code, 2016 as well as MCA Notification dated 29.06.2017.
7. After hearing submissions of the counsel for the petitioners and respondent and having perused the record, this Adjudicating authority is satisfied that the petitioners have made out his case by establishing that this Corporate Debtor has defaulted the payment dues on various occasion to this petitioner/OC and there is no dispute between the parties. In the circumstances, I am inclined to admit the instant application.
8. Therefore, the instant petition is admitted and I order the commencement of the Corporate Insolvency Resolution

Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

9. I appoint Mr. CMA CS Rajasekaran as Interim Resolution Professional (IRP) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

10. I declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, namely :

(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

11.The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

12.The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.

13.The Petitioner/OC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

14. The Registry is also directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

15. The address details of the IRP are as follows: -

Mr. CMA CS Rajasekaran
Regn. No: (IBBI/IPA-003/IP-N00053/2017-2018/10493)
New no. 6, Old no. 12,
Appavoo Gramani, 1st street
Mandaveli, Chennai – 600017
(Opposite C.S.I. Church)
Email: kalai@mdassociates.co.in
Mobile No: 9884528518/044-43601111


K. ANANTHA PADMANABHA SWAMY
Member (J)

RLS