

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/593/(IB)/CB/2017

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

In the matter of

M/s. Anant Agro Industries (Jaivik Krishi Pariyojna)

Vs.

M/s. Vijai Mahalaxmi Spinning Mills India Private Limited

Order delivered on 7th of November, 2017


CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Operational Creditor(s) : Counsel Mr. Rishabh Gupta
For Corporate Debtor(s) : Ex parte


ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP/593/(IB)/CB/2017 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, 'I&B Code, 2016') r/w the Insolvency & Bankruptcy (Application to Adjudicating Authority Rules, 2016). The prayer made is to admit the 


Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the I&B Code.

2. Heard the Counsel for the Operational Creditor and perused the record. As seen from the Order dated 25.10.2017, the Corporate Debtor was proceeded *ex parte*.

3. It is submitted that the Operational Creditor has sold cotton bales to the Corporate Debtor. As per the terms of sale, the entire payment became due on 05.08.2014. However, the Corporate Debtor has paid only partial amount. The Operational Creditor has claimed the total outstanding amount of Rs.8,45,575/- including interest, against the Corporate Debtor. The claim of the Operational Creditor is supported by the invoices which are placed at pages 11 and 12 of the typed set filed with the Application. 

4. The Operational Creditor has sent statutory notice under Section 8 of the I&B Code, 2016 on 02.09.2017 claiming the outstanding debt. The copy of the notice, the postal receipt and the track delivery report are placed at pages 6 to 10 of the typed set filed with the Application. The track delivery report goes to show that the notice has been delivered to the Corporate Debtor on 07.09.2017. However, the Corporate Debtor has not given any reply to the notice sent by the Operational Creditor.

5. The Operational Creditor has filed Affidavit to comply with Section 9 (3) (b) of the I&B Code, 2016 deposing that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt. The Bank Certificate has been filed by Operational Creditor to comply with Section 9 (3) (c) of the I&B Code, 2016 pertaining to its account with the Bank of Baroda.

6. From the documents placed on file and the arguments submitted, this Bench is satisfied that the 

Corporate Debtor defaulted in making payment of the outstanding debt claimed by the Operational Creditor. The Operational Creditor has fulfilled all the requirements of law. Therefore, CP/593/(IB)/CB/2017 is admitted and we order the commencement of the Corporate Insolvency Resolution Process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

7. We 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. We 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.

8. 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.

9. The Operational Creditor has not proposed the name of the IRP. Therefore, we direct the Registry to make a reference to the IBBI to recommend the name of the IRP within 10 days of the receipt of the reference. On receiving the recommendation of the IBBI, the Registry is directed to place the matter before this Bench for appointment of the IRP.

10. Accordingly, the Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. Order pronounced in open court.


S. VIJAYARAGHAVAN
MEMBER (TECHNICAL)

PAM


CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)