

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

CP/600/(IB)/CB/2017

Under Section 9 of the IB Code, 2016

In the matter of

Vishnu Sudha Textiles

V/s

Shri Krishnakanth Textiles Private Limited

Order delivered on: 02.11.2017

For the Petitioner/OC: Shri A.G Sathyanarayana, Advocate
For A.K Mysamy & Associates LLP

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

ORDER

1. Under Consideration is a Company Petition filed by Vishnu Sudha Textiles (in short, '**Petitioner/Operational Creditor**') against Shri Krishnakanth Textiles Private Limited (in short, '**Respondent/Corporate Debtor**') under section 9 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 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. The Petitioner is Sole Proprietary engaged in the Trading of Polyester Staple fibre PC Yarn, Polyester yarn, cotton yarn whereas the Respondent is engaged in the business of manufacturing and selling of Polyester yarn, cotton yarn etc.
4. Shri A.G Sathyanarayana, the learned counsel appearing on behalf of the Petitioner/OC submitted that the Respondent/CD approached the petitioner and expressed its requirements for Polyester Staple Fibre under various specifications and accordingly, the petitioner supplied the said products from time to time under various specified invoices. It is also submitted that the goods were delivered on Credit basis against specific invoice, bill etc. given the nature of the business and as a result the petitioner has always maintained a running account for the respondent.
5. It is further submitted that the Respondent has not made any payments towards the subject debt Invoice Nos: 2350, 2399 and 2540 dated 02.07.2015 to 21.07.2015 and with a view to maintain a good relationship with the respondent, various gentle reminders were given by the petitioner, but to dismay, nothing was fruitful.
6. It is further submitted that the petitioner, after making several requests for settling the dues with the respondent and having

waited for a long period of time for his legitimate dues, sent a Demand Notice dated 02.08.2017 as per the provisions under section 8 of the IB Code 2016 r/w Rule 5 of the IB Rules 2016 calling upon the respondent to make the payment of the outstanding due of Rs. 22,48,227/- inclusive of interest at 18% p.a and 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.

7. Before proceeding the matter, it is necessary to mention herein that the Respondent was set ex-parte vide order dated 02.11.2017 due to non-appearance on several occasions. The Respondent neither gave a reply to the Demand Notice dated 02.08.2017 nor filed any counter nor caused appearance before this Adjudicating Authority in spite of several notices. The petitioner has also placed on record proof of sending notices and deliveries. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process.
8. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating authority is

satisfied that the petitioner has clearly made out his case by establishing that the Corporate Debtor has defaulted the payment dues on various occasion to the petitioner. Also, the petitioner has proved by placing overwhelming evidence viz. Invoices, Demand Notice, financial transactions and Bank statements that default has occurred which the Corporate Debtor was responsible to pay. I am of the opinion that the petitioner has established clearly that the amount in default committed by the corporate debtor is genuine and is supported by the documentary evidence placed before this Adjudicating authority. In the circumstances, having satisfied with the submissions put forth by the learned counsel for the petitioner, I am inclined to admit the instant petition.

9. 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.

10. I appoint Shri S. Muthu Raju 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.

11. 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.

12. 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.

13. 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.

14. 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.

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

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

Mr. S. Muthu Raju
Regn No. IBBI/IPA-002/IP-N00009/2016-2017/10013
35, 2nd Floor, North Masi Street,
Madurai-625001
E-mail:smrajunaidu@gmail.com
Mobile No. 9994103021



K. ANANTHA PADMANABHA SWAMY
Member (J)

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