

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH AT HYDEABAD**

CP (IB) No.130/9/HDB/2017

U/s 9 of IBC, 2016
R/w Rule 6 of the I & B
(Application to Adjudicating Authority) Rules, 2016

In the matter of:

M/s Bombay Colour Agency
Represented by Sri Ketan D Sarvaiya, Working Partner
3-4-192, Tobacco Bazar
Secunderabad – 500003

...Petitioner /
Operational Creditor

Versus

Suryajyoti Spinning Mills Limited
(Fabric Division)
Burgul Village. Farooqnagar Mandal
Mahabubnagar – 509 202
Telangana

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

Respondent /
Corporate Debtor

Date of order 14.08.2017

CORAM

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Counsels / Parties present

For the Operational Creditor

Shri V. Padmanabha Rao,
Advocate

For the Corporate Debtor

Shri A.S. Prashanth
alongwith Shri Amir Bavani
Advocates



Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petition bearing CP (IB) /130/9/HDB/ 2017, is filed by Bombay Colour Agency, (Petitioner / Operational Creditor), seeking to initiate Corporate Insolvency Resolution Process (CIRP), under Section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of the I & B (Application to Adjudicating Authority) Rules, 2016, against Suryajyoti Spinning Mills Limited. (Respondent / Corporate Debtor).
2. We have heard Shri V. Padmanabha Rao, Learned Counsel for the Petitioner and Shri A.S. Prashanth and Shri Amir Bavani, Learned Counsels for the Respondent.
3. On receipt of the present Company Petition on 14.07.2017, the Registry has raised objections vide letter dated 28.07.2017, and the petitioner has been asked to comply with the objections so raised. The case was listed on the following dates viz. 31.07.2017, 03.08.2017, 04.08.2017, 10.08.2017 and today.
4. Brief facts, leading to filing of the present company petition are as follows.
 - (a) M/s Suryajyothi Spinning Mills Ltd (Respondent Company) is incorporated on 23.05.1983.
 - (b) The Petitioner Company placed 223 invoices from 21.5.2015 to 11.08.2016 for supply of Everzol Yellow LX, Everzol Bule Led, Everzol Red ED 3B etc. The total amount outstanding is Rs.4,39,96,775.78 (Principle amount Rs. 3,31,64,773.42 and Interest Rs. 1,08,32,002.36) till 10.04.2017.



(c) When the Respondent Company failed to pay the amount, they issued the demand notice in form No. 3 & 4 on 10.04.2017 by demanding the amount of Rs. Rs.4,39,96,775.78 (Principle amount Rs. 3,31,64,773.42 and Interest Rs. 1,08,32,002.36) till 10.04.2017.

(d) However, the Respondents after acknowledging the said notice failed to respond. Therefore, the present insolvency petition has been filed by seeking to initiate CIRP against the Respondent.

5. Shri V. Padmanabha Rao, the Learned Counsel for the Petitioner has filed a memo dated 11.08.2017 by stating that the Petitioner received 12 cheques Nos 793601 to 793612 of Rs. 25 lacs each drawn on State Bank of India from M/s Suryajyoti Spinning Mills Ltd in lieu of the debt subject to realisation. Therefore, they requested the Tribunal to permit to withdraw the case with a liberty to file fresh case.

6. In the light of above, it is clear that the Petitioner / Operational Creditor wanted to withdraw the present Company Petition only subject to realisation of the above cheques. The total claim mentioned in the Petition is Rs. 4,39,96,775.78 as on 10.04.2017. The Respondent / Corporate Debtor is directed to ensure that the cheques issued as mentioned above are realised on the due dates. We make it clear that the cheques issued are for full and final settlement of the total amount claimed. The Petitioners are directed to honour the above cheques.

7. In view of the facts and circumstances mentioned above, the present Company Petition bearing No. CP (IB)/130/9/HDB/2017 is disposed of as withdrawn, subject to realisation of the said cheque amounts.

No order as to costs.

Sd/-
Ravikumar Duraisamy
Member (Technical)

Sd/-
Rajeswara Rao Vittanala
Member (Judicial)

Order Received by the Registry on 13-9-2017

CERTIFIED TRUE COPY
CASE NUMBER *CP(IB) No. 130/9/HDB/2017*
DATE OF JUDGEMENT *14.8.2017*

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

for **Dy. Regr./Asst. Regr./Court Officer/**
National Company Law Tribunal, Hyderabad Bench