

**IN THE NATIONAL COMPANY LAW TRIBUNAL HYDERABAD
BENCH, HYDERABAD**

CP (IB) SR No.4148/9/HDB/2017
U/s 9 of IBC, 2016 R/w Rule 6 of I&B
(AAA) Rules, 2016

In the matter of:

M/S.BANG PAPERS PRIVATE LIMITED
Office at Unit No.29, New Osmangunj,
Hyderabad, Telangana - 500012
And
Registered Office at 47,
New Barden Lane, Mumbai,
Maharashtra -400003.

...Petitioner/
Operational Creditor

VERSES

M/S. HANUMAN CHROMOCOATES LIMITED
Corporate Office at NICCO HOUSE,
5th Floor, 2 Hare Street, Kolkata, West Bengal-700001
And
Registered Office at Borgaon Industrial Area,
Sausar District, Chhindwara,
Madhya Pradesh-480106.

...Respondent/
Corporate Debtor

Date of order: 30.11.2017

CORAM

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

Parties / Counsels Present

For the Petitioner/Operational Creditor: Mr.S.Raja Gopalan
Advocate

For the Respondent : None Appears

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petition bearing No. CP(IB) SR No.4148/9/HDB/2017 is filed by M/s. Bang Papers Private Limited (Petitioner/Operational Creditor), under section 9 of Insolvency and Bankruptcy Code,



2016 r/w Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by seeking to initiate Corporate Insolvency Resolution Process in respect of Hanuman Chromocoates Limited (Respondent/Corporate Debtor).

2. Brief facts, as mentioned in the present Company Petition, are as follows:-

- i. Bang Papers Private Limited (Petitioner/Operational Creditor) (U21000MH2007PTC172222) was incorporated under the erstwhile Companies Act, 1956 (now Companies Act, 2013). The main objects of the company is briefly are: leading distributor of writing and printing paper having its offices across India and have been supplying writing and printing paper of various specifications to various manufacturers and traders across all states of India.
- ii. Hanuman Chromocoates Limited (Respondent/Corporate Debtor) was incorporated on 08.02.1991 and the Nominal Share Capital is Rs.2,50,00,000/- and paid-up share capital is Rs. 2,50,00,000/-.
- iii. The Petitioner/Operational Creditor had been supplying materials based on purchase order issued by the Respondent/Corporate Debtor since the year 2013, and the Respondent/Corporate Debtor initially started delaying the payments for various materials so supplied by the Petitioner/Operational Creditor since January 2015, and as per business and trade practice, the Petitioner/Operational Creditor levied an interest of 24% per annum for all delayed payments to the Respondent/Corporate Debtor.



- iv. The Petitioner/Operational Creditor has been regularly sending Debit Notes for delayed payments and the Respondent/Corporate Debtor promised to repay the monies at the earliest instance, but however the Respondent/Corporate Debtor miserably failed to upkeep the payments and has been defaulting in payments so due to the Petitioner/Operational Creditor.
- v. The Respondent/Corporate Debtor not only failed to pay the accrued interest so due to the Petitioner/Operational Creditor, but also failed to pay for the materials so supplied on various dates in September 2015, November 2015 and December 2015.
- vi. The Petitioner/Operational Creditor to raise Debit Notes (DN) on the concluding day of every month wherein the interest is computed on all pending payments and such Debit Notes (DN) are regularly forwarded to the Respondent/Corporate Debtor and other such customers through regular communication channels.
- vii. The Petitioner/Operational Creditor to issue Invoices and that these invoices are titled LR with corresponding invoice cum challan details of Principal Manufacturer namely BILT Graphic Paper Products Limited and LR details of transporter. It is also the business practice of the Petitioner/Operational Creditor and is a common business practice to have invoices issued as forward sales and accordingly Form-C and E-1 are regularly maintained in accordance to prevalent tax laws.
- viii. The Respondent/Corporate Debtor was due to the Petitioner/ Operational Creditor a sum of



Rs.1,05,45,119/- (Rupees One Crore Five Lakhs Forty Five Thousand One Hundred and Nineteen Only) as of 31st July, 2016, and that the Petitioner/Operational Creditor and Respondent/Corporate Debtor had no disputes whatsoever with reference to either;

- a) the existence of the amount of debt and / or
- b) the quality of goods or service and /or
- c) the breach of a representation or warranty

- ix. The Respondent/Corporate Debtor had promised to repay to the Petitioner/Operational Creditor the entire outstanding and due amount of Rs.1,05,45,119/- (Rupees One Crore Five Lakhs Forty Five Thousand One Hundred and Nineteen Only) which was due for payment as of 31st July 2016, on or before 01.04.2017.
- x. The Respondent/Corporate Debtor had in accordance to the commitment to pay the entire outstanding and due amount of Rs.1,05,45,119/- had issued 17 cheques drawn on State Bank of India, SME BRANCH, NAGPUR, Maharashtra state, in favour of Petitioner/Operational creditor, dated 01.04.2017, and the value of cheques so issued by the Respondent/Corporate Debtor amounted to Rs.1,00,12,447/- (Rs One Crore Twelve Thousand Four Hundred and Forty Seven Only).
- xi. The Respondent/Corporate Debtor had also Deducted Tax Deduction at Source amounting to Rs.5,32,673/- (Rupees Five Lakhs Thirty Two Thousand Six Hundred and Seventy Three Only) and issued 17 cheques for the remainder of monies amounting to Rs.1,00,12,447/-.



- xii. The Respondent/Corporate Debtor at the time of issue of cheques also promised to pay all of the monies along with 24% interest per annum till such time the payments were realized by the Petitioner/Operational Creditor.
- xiii. The Petitioner/Operational Creditor had presented the Cheques at his bank account at Citibank, Begumpet Branch, Hyderabad on 27.06.2017 and the said cheques were returned unpaid on the grounds of insufficient funds.
- xiv. The Petitioner/Operational Creditor submits that the Corporate debtor has also failed to remit the TDS amounts so deducted for and on behalf of the Operational Creditor as stipulated under Income Tax Act and as such the Corporate Debtor is liable to pay the TDS amount of Rs.5,32,673/-.
- xv. The Petitioner/Operational Creditor had immediately got issued notices under 138 Negotiable Instruments act and also Demand Notices (Form3 and Form4) dated 30.06.2017 to the Respondent/Corporate Debtor.
- xvi. The Respondent/Corporate Debtor had replied to the Notice under 138 Negotiable Instruments Act vide his reply dated 25.07.2017.
- xvii. The Respondent/Corporate Debtor had failed to reply to the Demand Notice (Form3 and Form4) issued by the Petitioner/Operational Creditor nor had made payments in full vide the notice of demand dated 30.06.2017 and hence liable for initiation of Corporate Insolvency Resolution Process(CIRP) as stipulated in the Insolvency and Bankruptcy Code 2016.
- xviii. The Respondent/Corporate Debtor is liable to pay a sum of Rs.1,35,73,829/- (Rupees One Crore



Thirty Five Lakhs Seventy Three Thousand Eight Hundred and Twenty Nine Only) being the amount due and owed by the Corporate Debtor as of date of demand notice (i.e 30.06.2017).

xix. The Respondent/Corporate Debtor is liable to pay a sum of Rs.1,35,73,829/- (Rupees One Crore Thirty Five Lakhs Seventy Three Thousand Eight Hundred and Twenty Nine Only) as per the Tabular Computation of Outstanding Amount for amount overdue as of date of Notice i.e 30.06.2017.

xx. The Petitioner/Operational Creditor had filed Cheque bounce cases against the Respondent /Corporate Debtor in the Honourable XI METROPOLITAN MAGISTRATE COURTS, Secunderabad under sections 138 AND 142 of Negotiable Instruments Act and that the said offences under section 138 and 142 of Negotiable Instruments Act are distinct, separate and does not come under the definition of dispute as defined under sub-section 6 of section 5 of the Code. Dispute includes a suit or arbitration proceedings relating to (a) the existence of the amount of debt; (b) the quality of goods or service; or (c) the breach of a representation or warranty.



3. The case is listed for admission on 14.11.2017 & 30.11.2017. The matter was adjourned on the above dates at the request of the Party.
4. Mr.S.Raja Gopal, learned counsel for the Petitioner/Operational Creditor submitted that he may be permitted to withdraw the Company Petition for lack of jurisdiction before this Bench with a request to permit the Petitioner to approach Competent Judicial Forum.



5. In view of the above facts and circumstances of the case, submissions made by the learned counsel for the Petitioner / Operational Creditor, we disposed of the Company Petition bearing CP(IB)SR No. 4148/9/HDB/2017 as withdrawn, by granting liberty to the Petitioner to approach Competent Judicial Forum in accordance with law. The Registry is directed to return copies of petition along with material papers to the Petitioner.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

fz *12*
Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER CP(IB)SR No. 4148/9/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 30.11.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 8.12.2017