

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-846(ND)/2018

In the matter of

Mr. Baru Mal Vinod Kumar

.....Operational Creditor

V/s

M/s. Amira Pure Foods Pvt. Ltd.

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Present:

Order delivered on 11.12.2018

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SMT. DEEPA KRISHAN, HON'BLE MEMBER (T)

Present:

Ms. Prachi Johri, Advocate for the Petitioner
Mr. Sumranjot Singh for the Corporate
Debtor

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

1. The present petition has been filed by the Operational Creditor praying for initiation of Corporate Insolvency Resolution Process of the Respondent/Corporate Debtor on grounds of its inability to liquidate its debts. The Operational Creditor who is in the business of wholesale supply of grains, vegetables etc., had business relationship with the Corporate Debtor for the last few years.



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2. Payments were received in due course and the Corporate Debtor also paid interest on account of delayed payments. In acknowledgment of the outstanding liability, two cheques for Rs. 3,81,315/- and Rs. 3,84,015 were issued by the Corporate Debtor which returned dishonored. No steps have been taken by the Corporate Debtor to reduce this liability despite repeated requests and demands, other than offer assurances.

3. The Operational Creditor issued a notice under Section 8 of the Insolvency & Bankruptcy Code and has followed it by filing the present petition to initiate Corporate Insolvency Resolution Process of the Corporate Debtor. The claim of the Operational Creditor now stands increased to Rs. 12,96,214/- on account of accruing interest. The said petition has been filed in the required format annexed with relevant documents and correspondence.

4. On being served through the process of Bench, the Corporate Debtor entered appearance through their counsel, Mr. Simran Jot Singh. Ld. counsel has candidly admitted the claim made by the Operational Creditor and has expressed their inability to liquidate the same. This is corroborated by the Minutes of Meeting of the Board of Directors convened on 6th November, 2018, wherein it was resolved that the default in payment of the amount claimed in the petition be admitted. Copy of the resolution has been placed on record.



5. In view of the categorical admission of the Corporate Debtor expressing its inability to liquidate the amount claimed, the prayer of the Operational merits consideration and is hereby being admitted. Accordingly, the petition is Admitted.

A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

"(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.*

Further,

(2) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

(3) *The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

(4) *Further, the order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

“Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

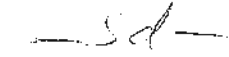


6. The Operational Creditor has not named any Interim Resolution Professional in the petition. Therefore, this Bench appoints Mr. Akash Shinghal, Registration No. IBBI/IPA-001/IP-P00137/2017-18/10279, E-mail Id. akash@kjco.net, Mob No. 09868145676, as the Interim Resolution Professional from the panel of Insolvency Professional approved by the IBBI. The IRP so appointed shall take statutory steps in accordance with the Code more specifically in terms of Sections 15, 17, 18, 20 and 21, and file his interim report from time to time.


7. To meet the immediate and urgent expenses, the Operational Creditor shall deposit a sum of Rs. 2,00,000/- in an account maintained by the IRP for which he shall be fully accountable.

The petition is disposed off as above.


Renotify this case for interim report of IRP on 14th January, 2019.


(Deepa Krishna),
Member (T)




(Ina Malhotra)
Member (J)

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 : 18/12/2018
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