



IN NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT- V

C.P. 4356/IB/MB/2019

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

M/s Jayprabhu Industries LLP.

Survey no. 80,79/P, Opp. B.Ed. College, At & Post – Pilwai, Taluka-Vijapur, Mehesana, Gujarat -382 870

..... Operational Creditor

Vs

M/s Mudra Denim Pvt. Ltd.

Wellington Business Park, Building No. 2, Gala no. 305, Andheri Kurla Road, Andheri (East), Mumbai City, Maharashtra – 400 099

..... Corporate Debtor

Order Reserved On: 23.09.2022

Order Pronounced On:14.10.2022

Coram:

Hon'ble H.V. Subba Rao, Member (Judicial)

Hon'ble Anuradha Sanjay Bhatia, Member (Technical)

Appearances (via Videoconferencing)

For the Applicant: Mr.Sandeep Bajaj a/w Mr. Asav Rajan, Ms. Vasudha Chadha,(Advocates).

For the Respondent: None appeared.



Per: Anuradha Sanjay Bhatia, Member (Technical)

1. The above Company Petition is filed by M/s. Jayprabhu Industries LLP hereinafter called as **Operational Creditor** seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against M/s. Mudra Denim Pvt. Ltd. herein after referred to as **Corporate Debtor** by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "**Code**") read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 47,96,754/-.
2. The Petitioner attached the following documents to demonstrate the existence of Debt:
 - a. Bank Certificate Dated 01.04.2018;
 - b. Copy of Purchase Orders issued by the Respondent;
 - c. Copy of Outstanding Invoices and delivery challans;
 - d. Debit Notes raised by the Operational Creditor dated 13.08.2018 and 31.12.2018;
 - e. Demand Notice dated 06.03.2019.

Facts of the Case:

3. The Petitioner submits that it is engaged in the business of manufacturing of cotton bales, cotton yarn, cotton seeds, cotton oil etc. The Operational Creditor further submits that it is a Limited Liability Partnership under the Limited Liability Partnership Act, 2008 having its registered office at: Survey No. 80, 79/P, Opp. B.Ed. College, Pilwai taluka, Vijapur, Mehsana, Gujrat 382 870.
4. The Petitioner submits that, the Respondent is body corporate constituted under relevant provisions of Companies Act, 1956 and having its registered



office at Mumbai, Maharashtra and engaged in the business of spinning, weaving and finishing textiles.

5. The Petitioner submits that, the Respondent company had approached the Petitioner herein for the purpose of procuring supply of cotton yarn for the first time in or around August 2017. Being satisfied by the products offered by the Petitioner, the Respondent started purchasing cotton yarn in required quantities, by placing different purchase orders, to which the Petitioner supplied the products in accordance with the requirements of the Respondent.
6. The Petitioner submits that up to March 2018, the Respondent had carried out transactions of a considerable amount. The Petitioner further submits that, the Respondent had not raised any dispute, with respect to the quantity or quality of products, as supplied by the Petitioner, which is evident from the delivery challans being duly acknowledged by the Respondent.
7. The Petitioner submits that, upon supply of goods as per the requirement of the Respondent, the Petitioner raised Invoices from time to time. It is the Petitioner's case that the Corporate Debtor failed to make the payments of the Invoices raised from 07.02.2018 till 19.03.2018 (three Invoices) The details of the said Invoices are as follows;

Sr. No.	Invoice No.	Invoice Date	Pending Amount (in Rs.)
1	YARN/467	07.02.2018	8,97,489/-
2	YARN/501	22.02.2018	15,61,683/-
3	YARN/553	19.03.2018	15,50,758/-
Total			40,09,930/-



8. The total outstanding amount due and payable by the Corporate Debtor is Rs.40,09,930/-, for the goods supplied and in addition to this, the Petitioner also raised and issued two debit notes for an amount of Rs.2,77,992/- and Rs.5,08,832/- respectively, towards interest/late payment charges. The aggregate amount due was claimed at Rs.47,96,754/-
9. The Petitioner submits that the Respondent assured and agreed to release the payments and clear outstanding dues pertaining to that invoices raised, as per the terms and conditions agreed upon. However, the Respondent failed to clear the admitted and undisputed amount.
10. The Petitioner, thereafter, through emails, letters and telephonic calls reminded the Respondent for release of dues. The Petitioner further submits that the Respondent made false promises and continuously requested time for payment of dues. Thus, the Respondent avoided to make the payments and turned a blind eye to all the reminders for outstanding payments.
11. The Petitioner then issued a Demand Notice dated 06.03.2019, under *Section 8 of the Insolvency and Bankruptcy Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy Regulations, 2016*, in which the Petitioner called upon the Respondent for payment of outstanding dues within 10 days of receipt of such notice. The Petitioner submits that the Demand Notice was duly served on the Corporate Debtor at the registered address as well as the factory address of the Respondent.
12. The Petitioner stated that it did not receive any response from the Corporate Debtor to the Demand notice served on the Corporate Debtor.



Findings

13. The Corporate Debtor **did not choose to file any reply**, contesting the above Company Petition. The Corporate Debtor has not complied with the order of this Bench, dated 18.07.2022, in which the Corporate Debtor was directed to submit a copy of reply, before next date and argue the matter, failing which the argument of the Corporate Debtor would be treated as heard. The Corporate Debtor did not furnish any reply and did not appear before this Bench on 23.09.2022. **The Corporate Debtor was set ex-parte.**

14. Heard the counsel appearing for the Operational Creditor. The Ld. Counsel appearing for the Operational Creditor invited the attention of this Bench to the various purchase orders, invoices annexed to the Company Petition basing on which the above Company Petition was filed. He has also invited the attention of this Bench, to the Demand Notice dated 06.03.2019, and the proof of delivery of demand notice on the Corporate Debtor, at its Registered address as well as the factory address. The Corporate Debtor, having received the Demand Notice, did not send any reply nor did it make any payment of the outstanding dues.

15. The Petitioner has enclosed a Bank Certificate dated 01.08.2019, stating no receipt of payment from the Corporate Debtor to the Petitioner, for a period from 01.04.2018 to 31.12.2019, at page 24 of the Company Petition, which is extracted for ready reference:



We understand your world

HDFC Bank Limited
D Yagnik Chambers
Opp S.T. Bus Stop
Mansa - 382 845
Dist- Gandhinagar Gujara

Date : 01/08/2019

To,

JAYPRABHU INDUSTRIES LLP
SURVEY NO 80 79/P OPP B ED COLLEGE
AT AND PO PILWAI TA VIJAPUR PILWAI
VIJAPUR 382870

Subject : Certificate confirming all payment of an unpaid debt by Mudra Denim
Private Limited from 01/04/2018 to 31/07/2019

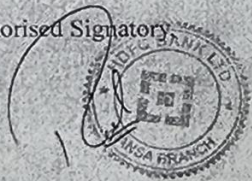
Dear Sir,

This is with References to your letter dated 31/07/2019 requesting us to issue a certificate confirming that there is no payment received from Mudra Denim Private Limited in the cash credit account no.50200011426264 of JAYPRABHU INDUSTRIES LLP maintained at our Mansa Branch.

In accordance with the same and perusal of the aforementioned account held with us we have reviewed the records of your account on best efforts basis we hereby certify that it is observed no payment has been received from Mudra Denim Private Limited in the account bearing the aforementioned account from 01/04/2018 to 31/07/2019

This certificate issued on your specific request only, no responsibility lies on part of the issuer

Authorised Signatory



Jayprabhu Industries LLP

Potet Jeyar
Declarated Partner

www.hdfcbank.com

Regd. Office: HDFC Bank Ltd., HDFC Bank House, Senapati Bapat Marg, Lower Parel (West), Mumbai - 400 013.
Corporate Identity No.: L65920MH1994PLC080618



16. After hearing the submissions and upon perusing the material available on record, this Bench feels that the Petitioner has successfully demonstrated the existence of “**debt**” and “**default**” committed by the Corporate Debtor in this case. Since the Corporate Debtor did not file any reply, the claim of Operational Creditor remained unchallenged. The above Company Petition being filed on 04.12.2019 is well within limitation. Thus, Company Petition satisfies all legal requirements for admission.

17. Accordingly, the above Company Petition is **admitted** by passing the following:

ORDER

- a. The above Company Petition No. (IB) **4356 of 2019** is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s. Mudra Denim Private Limited**.

- b. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Paresh Chandul Mehta** , Insolvency Professional, Registration No: IBBI/IPA-003/IP-N0099/2017-2018/11008, having email Id- pareshmehta5959@gmail.com and contact no -7021008921 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Operational Creditor shall deposit an amount of Rs.2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend



the above amount only towards expenses and not towards his fee till his fee is decided by COC.

- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.



- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, the **C.P.(IB) 4356 of 2019** is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

H.V. Subba Rao
Member (Judicial)