

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

CP (IB) No. 68/BB/2018

**U/s 9 of IBC, 2016
r/w Rule 6 of I&B (AAA) Rules, 2016**

In the matter of

**Saravana Distributors
14, Raja Rao Street
Tirpur 641 601**

--- **Petitioner/Operational Creditor**

Versus

**M/s. Scotts Garments Limited
481-B, IV Phase, Peenya
Bangalore 560 058**

--- **Respondent/Corporate Debtor**

For the Petitioner(s) : Ms. Shalini, Advocate
For the Respondent(s) : Shri G Yadupathi, Advocate (Not present)

Order delivered on 13th August, 2018

Coram: 1. Hon'ble Shri Rajeshwara Rao Vittanala, Member Judicial
2. Hon'ble Shri. Ashok Kumar Mishra, Member Technical

ORDER

Per: **Rajeshwara Rao Vittanala, M (J)**

1. CP (IB) No. 68/BB/2018 is filed by M/s Saravana Distributors (Operational Creditor), U/s 9 of IBC, 2016, R/w Rule 6 of I&B (AAA) Rules, 2016, by seeking to initiate CIRP in respect of M/s Scotts Garments Ltd. (Corporate Debtor).
2. Brief facts, as mentioned in Company Petition, are as follows:

- 1) M/s **M/s Scotts Garments Limited (Corporate Debtor)** is a Company incorporated on 01.03.2002
- 2) The Operational Creditor supplied dyes and chemicals to the Operational Debtor on 30.11.2015 to 31.12.2016 vide Invoice Nos. VAT 002762, VAT 002839, VAT 03109, VAT 003399, VAT 003446, VAT 003447, VAT 003448, VAT 003504, VAT 003505, VAT 003684, VAT 003843, VAT 004018, VAT S 00703, VAT S 00834, VAT S 00835, VAT S 00892, VAT/2506. And other supplies vide Invoice Nos. CST 005, CST 0019, CST 002 CST



(Signature)

005, CST 0019, CST 0029, CST 0032, CST 0063, CST 0065, CST 0093, CST 00139, CST 00140, CST 00141, CST 00143, CST 00144, CST 00149, CST 0021, CST 031, CST 0032, CST 0058, CST 0090, CST 0096. As per terms and conditions, payments in respect of these supplies were due to be made within days of sale and for payment made for more than 30 days from the date of invoice, 24% interest would be charged. However, the Operational Debtor had defaulted in making payment of principal amount and interest of Rs. 11,95,865/- along with interest at 24% p.a. from the due date of respective invoices till the actual date of payment. Accordingly, they have issued a demand noticed dated 06.11.2017 u/s 8 of IBC (AAA), 2016 by demanding Operational Debtor to pay Rs. 11, 95,865/- along with interest at 24% p.a. After receiving the notice, the Operational Debtor did not respond. Aggrieved by the non-payment of debt, the present Company Petition is filed.

3. Heard Ms. Shalini, Learned Counsel for Petitioner (Operational Creditor). None appears for Respondent (Operational Debtor). Shri Yadupathi G, has filed vakalat on 02.05.2018 for Respondent. The Tribunal granted time from 02.05.2018 onwards to Respondent to file reply. The case is listed on various dates viz. 12.03.2018, 19.03.2018, 28.03.2018, 16.04.2018, 02.05.2018, 11.05.2018, 08.06.2018 and 17.07.2018. However, Respondent did not file any reply. Neither the petitioner nor any of his representative appeared.
4. The Learned Counsel for Petitioner submit that the debt in question is not disputed by the Respondent (Operational Debtor) and even statutory notice issued on 6.11.2017 was not responded so far. They did not even bother to appear before the Tribunal. Basing on assurances made by the Corporate Debtor with regard to payment, they have supplied the material in question. The Respondent is liable to pay Rs. 11, 95,865/- for the material supplied under various invoices placed as stated in the petition. The present Company Petition is filed strictly in accordance with the law as prescribed u/s 9 of IBC, 2016. Shri N Shiva Kumar, Resolution Professional with Regn. No. IBBI/IPA-001/IP-P00787/2017-18/11322 is also suggested as Interim Resolution Professional. And he has also filed necessary declaration as per the law and thus he prima facie found to be eligible to be appointed as IRP. Therefore, the learned counsel urged the Tribunal to admit and to initiate CIRP in respect of Corporate Debtor.
5. We have carefully perused the documents and pleadings filed by the Petitioner. We find that the instant Company Petition filed duly following prescribed procedure mentioned under section 9 of IBC, 2016 such as Petition/application is complete, there is no repayment of unpaid operational debt; demand notice has been delivered, no notice of dispute is received etc. Therefore, we are of



considered opinion that it is a fit case to admit and to initiate CIRP in respect of Corporate Debtor.

6. In view of the above facts and circumstances of the case, and, by exercising powers conferred on this Adjudicating Authority, under Section 9(5) (1) of the Code, CP (IB) No.68/BB/2018 is hereby admitted with the following consequential directions:

- 1) We hereby appointed Shri N Shivakumar, as Interim Resolution Professional with Regn. No. IBBI/IPA-001/IP-P00787/2017-18/11322 as Interim Resolution Professional to conduct CIRP in respect of Corporate Debtor;
- 2) The following moratorium is declared prohibiting all of the following, namely:
 - i) 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;
 - ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii) 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;
 - iv) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;
 - v) 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;
 - vi) 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;
 - vii) The order of moratorium shall have effect from the date of such order till the completion of Corporate Insolvency Resolution Process.

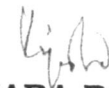
- 3) The IRP should follow all extant provisions of IBC, 2016 and the guidelines including fees rules as framed by IBBI. The IRP is hereby directed to file his report in the Tribunal from



time to time. IRP is further directed to strictly adhere time schedule as mentioned under the Code.

- 4) The Board of Directors and all the staff of Corporate Debtor are hereby directed to extend full co-operation to the IRP in carrying out his functions as per the Code and Rules made by IBBI.
- 5) Post the case on 28.09.2018 for report of IRP.

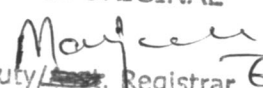

(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESHWARA RAO VITTANALA)
MEMBER, JUDICIAL

rb



CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL


Deputy Registrar 6/9/18
National Company Law Tribunal
Bengaluru Bench
