

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT - II**

C.P. No. 1896/IBC/MB/2018

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 Sarla Performance Fibres Limited
(L31909DN1993PLC000056)**

Having its office at: 304, Arcadia, 195,
Nariman Point, Mumbai – 400021.

.....Operational Creditor

Vs

**M/s Blue Blends (India) Limited
(L17120MH1981PLC023900)**

Having its Registered Office at : JBF House,
2nd Floor, Old Post Office Lane, Kalbadevi
Road, Mumbai – 400002.

.....Corporate Debtor

Order delivered on:- 02.12.2021

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Reshant Shah

For the Corporate Debtor : Ms. Meharunnisa Tole

ORDER

Per :- Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *M/s Sarla Performance Fibres Limited* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *M/s Blue Blends (India) Ltd.* (hereinafter called “Corporate Debtor”) alleging that the Corporate debtor committed default in making payment to the Operational Creditor. This petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of Principal sum of Rs. 1,60,00,000/- (Rupees One Crore Sixty Lakhs Only) due on 30.11.2017. Further in the Petition in Form 5 under the head of Particulars of Operational Debt only the Principal amount has been claimed and the Interest component has not been claimed.
3. **The Submissions of the Operational Creditor are as follows:**
 - a. The Operational Creditor submits that the Operational Creditor and the Corporate Debtor entered into an Agreement dated 25.09.2017. Under the said agreement the Corporate Debtor was liable to pay an amount of Rs. 1,75,00,000/- and out of which a part

payment of Rs. 15,00,000/- was paid thereby leaving balance amount of Rs. 1,60,00,000/- due and payable.

- b. Further, the Corporate Debtor admitted its liability to pay and issued cheques to show its bona-fide to make the payment. However, the said cheques got dishonored and the Corporate Debtor failed to discharge the admitted liability and also failed to honour the Agreement dated 25.09.2017.
- c. The Operational Creditor sent a Demand Notice under section 8 in Form 4 of the Code dated 12.04.2018 thereby demanding the payment in respect of unpaid Operational Debt from the Corporate Debtor. The Operational Creditor has annexed the postal receipt along with the Acknowledgement card of the Corporate Debtor. However, the Corporate Debtor did not file any Reply to the Demand Notice and no dispute was raised by the Corporate Debtor under section 5(6) of the Code.
- d. The Operational Creditor has also submitted the Statement of Bank Account No. 2000000683904 being the IndusInd Bank for the period 01.12.2017 to 20.05.2018 along with the Bankers Certificate dated 21.05.2018 wherein the Bank has verified the details and statements maintained by the Operational Creditor and have not come across payments received from the Corporate Debtor during the period 01.12.2017 to 21.05.2018.

4. Submissions of the Corporate Debtor are as follows :-

- a. The Corporate Debtor has appeared before this Tribunal on several occasions. The Corporate Debtor has neither replied to the Demand Notice sent to it u/s 8 of the Code nor filed an Affidavit in reply to the present Petition.

FINDINGS

5. We have heard the submissions of the Counsel appearing for the Operational Creditor and Counsel appearing for the Corporate Debtor. It is seen from the records that this Tribunal had given sufficient chances to the Corporate Debtor to file its Reply. However, at the time of Final hearing on 26.10.2021, the Counsel appearing for the Corporate Debtor submitted that the Corporate Debtor Company is not willing to file any reply to the present Petition and the Corporate Debtor Company is not in a position to settle the matter. The Counsel appearing for the Corporate Debtor had no objection if Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor is initiated.
6. Hence this Bench is of the considered view that the Operational Creditor has successfully demonstrated and proved the debt and default in this case and the Corporate Debtor has also admitted its liability that the amount is due and payable to the Operational Creditor. Hence this a clear case for admission. The Operational Creditor has also suggested the name of proposed Interim Resolution Professional along with his consent letter in Form-2. Hence this Bench is left with no option except

to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 9 of the Code.

13. For the foregoing reasons, the above Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

- a. **The above Company Petition No. (IB) - 1896(MB)/2018 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Blue Blends (India) Limited.
- b. This Bench hereby appoints Mr. Vinit Gangwal, Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00091/2017-18/10235 as the Interim Resolution Professional having office at 305, Om Chambers, above Hotel Panchali, J.M. Road, Shivajinagar, Pune – 411005, 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 cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- 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 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**JUSTICE P.N. DESHMUKH (Retd)
(MEMBER JUDICIAL)**