

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

CP 3141 (IB)/MB/2018

Under Section 9 of the I&B Code, 2016

In the matter of

Mahavir Interchem

...Operational Creditor/ Applicant

v/s

Lakeland Chemicals (India) Limited

...Corporate Debtor/Respondent

Order Dated 23rd September 2019

Coram: Hon'ble Member (Judicial): Mr V.P. Singh

Hon'ble Member (Technical): Mr Rajesh Sharma

For the Applicant: Adv. Drasti Jauji

For the Respondent: Adv. P. G Sabnis

Per Rajesh Sharma, Member (Technical)

ORDER

1. This is an application being CP 3141/2018 filed by **Mahavir Interchem**, a proprietorship concern of Mr. Samir Kubhani, Operational Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) for initiating Corporate Insolvency Resolution Process (**CIRP**) against **Lakeland Chemicals (India) Limited**, Corporate Debtor, a Public Company engaged in the manufacturing of chemicals, claiming a default of ₹78,19,855.83/- (Rupees Seventy Eight Lakh Nineteen Thousand Eight Hundred and Fifty Five and Paise Eighty Three Only) for the supply of chemicals and solvents by the Operational Creditor to the Corporate Debtor.
2. This Application has been filed by Mr. Samir Kubhani, being the Sole Proprietor of Mahavir Interchem.
3. The Operational Creditor has supplied goods to the Corporate Debtor from 17.12.2013 to 31.06.2018. The Corporate Debtor has failed to

make payments of invoices as per the due dates and has been making delayed payments on ad-hoc basis. As per the working of computation of default annexed to the Application, the total principal amount for the goods supplied from 17.12.2013 to 31.05.2018 is ₹1,99,41,002.36/- (Rupees One Crore Ninety Nine Lakh Forty One Thousand and Two and Paise Thirty Six Only), the amounts received by the Applicant is ₹1,45,16,572.43/- (Rupees One Crore Forty Five Lakh Sixteen Thousand Five Hundred and Seventy Two and Paise Forty Three Only) and the amounts due being ₹54,24,429.83/- (Rupees Fifty Four Lakh Twenty Four Thousand Four Hundred and Twenty Nine and Paise Eighty Three Only). The interest on the balance unpaid amount from 12.12.2013 to 31.05.2018 at the rate of 24% p.a is ₹23,95,426/- (Rupees Twenty Three Lakh Ninety Five Thousand Four Hundred and Twenty Six Only) making the total claim amount ₹78,19,855.93/- (Rupees Seventy Eight Lakh Nineteen Thousand Eight Hundred and Fifty Five and Paise Ninety Three Only).

4. The Applicant has annexed copies of the purchase orders raised by the Corporate Debtor along with the corresponding invoices for the period 10.05.2017 to 31.05.2018. Further the interest due for the supplies made from the year 2013 to 30.06.2018 for which the Corporate Debtor has made delayed payments on ad-hoc basis, the amount of interest that has accrued is ₹23,95,426/- (Rupees Twenty Three Lakh Ninety Five Thousand Four Hundred and Twenty Six Only). The Ledger Account of the Corporate Debtor maintained by the Applicant for the years 2013-14 to 2018-19 has been annexed to the Application showing delayed payments made by the Corporate Debtor for the invoices raised on it.
5. The Applicant had issued Demand Notice dated 20.06.2018 and the same has been duly served on the Corporate Debtor on 02.07.2018, Copy of the Demand Notice with proof of delivery is annexed to the Application.
6. The Applicant has filed an affidavit in compliance of section 9(3)(b) dated 03.08.2018 of the I & B Code, 2016 stating that the Corporate Debtor has failed to raise any dispute by the provisions of the Code. Copy of the said affidavit is annexed to the Application.

7. The Corporate Debtor has failed to point out any dispute in relation to the goods supplied by the Applicant, further, in its Affidavit in Reply dated 11.04.2019, it has stated that it is trying to resolve its debts by infusion of funds by an overseas investor and through negotiated settlements with creditors.
8. We have heard the parties and perused the record.
9. On perusal of the purchase orders and the invoices annexed to the Application, it is established that the goods were supplied based on the purchase orders and invoices were raised against the purchase orders. Further, the Ledger Statement annexed to the Application establishes the fact that the Corporate Debtor has not made timely payments and has paid in lumpsum without adhering to the stipulated time period as per the invoices.
10. The Applicant has demanded payments vide the reminder email dated 28.05.2018 sent by the Applicant to the Corporate Debtor, however, the payments were not received.
11. Ledger Account of the Corporate Debtor maintained by the Applicant and the Bank Certificate dated 01.08.2018 establishes that the Corporate Debtor has not made payments as per the invoices but delayed payments on ad-hoc basis. The Corporate Debtor having paid in part towards the invoices and not having raised any dispute prior and after the Demand Notice was served, has defaulted in making the payments. The debt and default being above a sum of Rupees One Lakh, and the Application being well within limitation, this Application deserves to be admitted.
12. The Applicant has not proposed the name of a registered insolvency resolution professional to act as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code along with declaration of the proposed IRP, in Form 2, that no disciplinary proceeding is either pending or initiated against him/her.
13. The Application under section Section 9 of I&B Code, 2016 filed by the Operational creditor for initiation of CIRP in prescribed Form No.5, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and is complete. The existence of operational debt of more than rupees one lakh against the

corporate debt and its default is also proved. Accordingly, the application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 9 of I&B Code, 2016, filed by **Mahavir Interchem**, against **Lakeland Chemicals (India) Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - a) 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;
 - 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 activity 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 possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement under section 13 of the I&B Code regarding initiation of corporate insolvency resolution process should be made immediately.
- VI. That this Bench at this moment appoints **Mr Rajeev Nandkishore Bhatia**, a registered insolvency resolution professional bearing Registration No. **[IBBI/IPA-001/IP-P01384/2018-19/]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
14. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor, and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted immediately.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

23rd September 2019