

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/2(AHM)2024

Order under Section 9 IBC

IN THE MATTER OF:

SUMANJU PROJECTS & SERVICES LIMITED

.....Applicant

Vs

SEVENN PROTECTIVE FABRICS PRIVATE LIMITED

.....Respondent

Order delivered on: 11/07/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)
CP(IB) No. 02 of 2024**

[Filed under Section 9 of the Insolvency & Bankruptcy Code, 2016
r/w Rule 6 of the Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016]

IN THE MATTER OF:

M/s. Sumanju Projects & Services Limited

SF 1, JBR Arcade, Opp. Satyam Complex,
Science Road, Sola,
Ahmedabad-380060
Email id: cont.devenndra@gmail.com

....Operational Creditor

Versus

Sevonn Protective Fabrics Private Limited

(Formerly known as V K Plast Lam Private Limited)

20 B, Tin Murti Bungalows,
Near Devansh Bunglow,
Surdhara Circle, Thaltej,
Ahmedabad-380054
Email id: vkplastlam@gmail.com

....Corporate Debtor

Order pronounced on 11.07.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Present:

For the Applicant : Mr. Mohammed Vohra, Adv.
For the RoC : Mr. Aditya Raval, Adv.

JUDGEMENT

1. This is an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016) by the applicant M/s Sumanju Projects & Services Limited, (Operational Creditor Identification No.U74140GJ2014PLC081107 with office at SF 1, JBR Arcade, Opp Satyam Complex, Science City Road, Sola Ahmedabad against the Corporate Debtor(Respondent No.1) viz. Sevens Protective Fabrics Private Limited, (Identification No.U25200GJ2011PTC063495) situated at 20 B Tin Murti Bungalows, Surdhara Circle, Thaltej, Ahmedabad, seeking thereof to initiate Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) against the Corporate Debtor due to default of debt under Sec 9 of IBC 2016.
2. Corporate Debtor was incorporated on 04.11.2011 with the Authorised Share Capital of Rs.1,50,00,000/- (One Crore Fifty Lakh Only) and the Paid Up Share Capital of Rs.1,47,00,000/- (One Crore Forty Seven Lakh Only). In Part

IV of the application, default amount 2,67,97,871.54/- (Two Crore Sixty Seven Lakh Ninety Seven Thousand Eight Hundred Seventy One Only).

3. The Operational creditor is in to the business of accounting, legal, book keeping and auditing activities, tax consultancy, market research and public opinion polling. Applicant stated that he had raised as per the demand raised by the respondent various invoices from 4 October 2021 (list of 103 invoices produced of various dates with the last invoice on 17 March 2023) against the respondent Corporate Debtor and an amount of Rs.2,67,97,871.54/- was in default which includes principal and interest amount of Rs.2,52,45,124.45/- and Rs.15,52,747/- respectively. The date of default is stated to be 17.03.2023. The applicant has also submitted the NeSL certificate dated 28.10.2023 along with a bank statement for the relevant period of the invoices. The applicant stated that he had issued a demand notice on 15.09.2023 under the provisions of IBC 2016 with proof of record of delivery.
4. On perusal of the invoices, it is observed that they have been raised without any due date for payment, accompanied by

delivery challans and e-way bills respectively along every consignment stated to have been delivered. Even though the invoices do not mention any interest due and payable, the applicant has enclosed a detailed statement of interest charged on the outstanding from 04.10.2021 at 9%. In the NeSL certificate the debt start date is mentioned as 04.10.2021 and the due date as 17.03.2023 for a default of Rs 2,52,45,124.54/- and a total outstanding amount of Rs 2,67,97,871.54/-. Applicant also enclosed a letter dated 06.04.2023 wherein it had sought confirmation of account balance as on 31.03.2023 from the respondent CD for an amount of Rs.2,52,45,127.10/- which has apparently not been confirmed and sent by the respondent as per records. The applicant issued a notice under Rule 5 of IBC, 2016 on 14.09.2023 and also stated that the debt is covered under the Indian Contract Act 1872 and IBC 2016.

5. The applicant further in compliance to orders dated 03.01.2024 furnished the copies of GST paid, copy of the letter from MCA that the name of the applicant was changed from VK Plastlam P Ltd to Sevens Protective Fabrics Pvt Ltd with effect from 01.10.2021 and a bank statement that an

amount of Rs 4,60,000/- was received during the period from 01.04.2022 to 31.04.2023 from the Respondent CD.

6. The respondent CD in its reply affidavit dated 23.04.2024 has not disputed the debt but stated that he has some financial difficulty and there are unpaid loans to various financial creditors on account of which he is not able to pay the amount of principal and interest due and payable as claimed in the application.
7. Heard both the parties. The applicant has given a valid proof with GST and other documents. The respondent has accepted the debt and has confirmed he has defaulted and would not be in a position to pay the amount.
8. This application has been filed under Sec 9 by the Operational Creditor. Even though he has suggested an IRP, the procedure as per IBC is the adjudicating authority to appoint an IRP in the matter.
9. In view of the above submissions, we pass the following order:

ORDER

- I. The CP(IB) No. 2 of 2024 is allowed.
- II. The Respondent/Corporate Debtor Sevens Protective Fabrics Private Limited is admitted in Corporate

Insolvency Resolution Process under Sec.9(5) of the Code.

- III. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- V. Even though applicant has suggested an IRP, the procedure as per IBC is the adjudicating authority to appoint an IRP in the matter. Hence, we hereby appoint Mr. Rajendra Sanghi, Registered Insolvency Professional having registration number as IBBI/IPA-001/IP-P-01973/2019-2020/13011 under Sec.13(1)(c) of the Code to act as Interim Resolution Professional

(IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or cooperate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
- X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the CD.
- XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.

- XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- XIII. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)

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