



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 04
(IB)-106(PB)/2024

IN THE MATTER OF:

M/s Indo Spirits

.... Petitioner

v.

M/s. Multicity Hospitalities LLP

.... Respondent

Order under Section 9 of Insolvency & Bankruptcy Code

Order delivered on 18.12.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH KUMAR SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL AND VC)

PRESENT:-

For the Petitioner

Mr. Anand Shankar Jha, Mr. Sachin Mintri &
Mr. Abhilekh Tiwari, Advs.

For the Respondent

None

ORDER

This is a petition filed under Section 9 of IBC by the Operational Creditor M/s. Indo Spirits seeking to bring the respondent/CD i.e. M/s. Multicity Hospitalities LLP under CIRP proceedings. It is stated that there is an outstanding amount of ₹5.76 Cr. (Rupees Five Crores Seventy-Six Lakh approx.) on which interest is also due to the extent of ₹0.21 Cr. totaling approx. ₹5.97 Cr.

2. Ld. Counsel for the petitioner appeared in Court and states that despite effective service upon the respondent through all modes including paper publication the respondent has chosen



not to appear before us nor has filed reply. Hence, we proceed *ex parte* against the respondent.

3. Ld. Counsel for the petitioner has submitted the copy of ledger at pages 34-86 of his petition and invoices and it is stated by the Ld. Counsel for the petitioner that M/s. Indo Spirits, the Operational Creditor is a whole sale distributor of alcoholic beverages and holds L1 license while the respondent-CD Multicity Hospitalities LLP is a retail seller and holds L7 license. The default occurred on 25.09.2022 after the last invoice was served upon the respondent on 25.08.2022. Thereafter the petitioner submitted a demand notice dated 20.10.2022 upon the respondent for which proof of delivery has also been filed and the same is available at page No. 732-735 of the petition. Ld. Counsel for the petitioner states that the petition as well as the demand notice is supported by the ledger at pages 34-86 of the petition for the period 01.11.2021 to 31.10.2023 as well as invoices for the period 14.07.2022 to 25.08.2022 (page 92 (vol. 1) and Page 678 (vol. 4)). In compliance with the provisions of the Code, the affidavit u/s. 9(3)(b) has also been submitted whereby it is stated that there is no payment received by the creditor against his demand notice. He further states that there is an acknowledgment of debt for the period 01.04.2022 to 31.05.2022 of ₹6.27 Cr. approx. (Rupees Six Crore Twenty-Seven Lakhs) (Page 680 (vol. 4) against which they have received an amount of ₹3 Cr. (Rupees Three Crores) (page 693-705 (vol. 4)). The last payment received was ₹25 Lakhs (Rupees Twenty-Five Lakhs) on 23.08.2022.



4. The petitioner counsel also states that in compliance of the provisions of the Information Utilities Regulations, 2017 he has filed information of default with the NeSL and the copy of the same is also filed by way of an additional affidavit. It is now stated that the principal amount outstanding is ₹5.97 Cr. (Rupees Five Crores Ninety-Seven Lakhs) (Principal ₹5.76 Cr. plus interest @24% of ₹21.04 lakh). On the basis of the above-stated information, the Petitioner seeks to bring the respondent under CIRP proceedings in the case of admitted debt and default.

5. We have perused the documents and heard the Ld. Counsel for the petitioner. As already stated earlier, the respondent has chosen not to appear before us despite effective service and we have proceeded *ex parte*. We are satisfied with the submissions made by the Ld. Counsel for the petitioner that this is a fit case in which the respondent has to be brought under the CIRP proceedings so that the respondent company's insolvency can be resolved. In view of the above, we are inclined to admit the petition under Section 9 of the Insolvency & Bankruptcy Code.

6. In light of the above facts and circumstances, it is ordered as follows: -

a) The Application bearing **CP. No. (IB)-106(PB)/2024** filed by the Applicant/Operational Creditor, under section 9 of the Code read with Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Corporate Debtor is **admitted**.

b) We declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium shall follow.



c) 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 Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

d) The petitioner has not suggested the name of the RP. The Court therefore deems it appropriate to appoint Mr. Shailesh Chandra Ojha as IRP from the panel of IBBI which is before us. Mr. Shailesh Chandra Ojha having address: *Flat No: 101 UGF, Plot No: 28A-28B, Extn. 1 Sewak Park Dwarka More, Adjacent NSIT, North West, National Capital Territory of Delhi, 110059, Email id: ipscojha@gmail.com, registration number IBBI/IPA-001/IP-P-02859/2023-2024/14382* is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorization of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016.

e) In pursuance of Section 13(2) of the Code, we direct the IRP to make a public announcement immediately with regard to the admission of this application under Section 9 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



f) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP/RP, in terms of Section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow. There shall be no future opportunity given in this regard.

g) The IRP shall perform all his functions as contemplated, interalia, by Sections 17, 18, 20 & 21 of the Code. He 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 and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

h) 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 Corporate Debtor.

i) The Operational Creditor shall deposit a sum of Rs 5,00,000/- (Rupees Five Lakh Only) with the IRP to meet the expenses arising out of issuing of public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).

j) The Registry is hereby directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the IRP and the Registrar of Companies, NCT of Delhi and Haryana, by



Speed Post and by email, at the earliest but not later than seven days from today.

k) The Registrar of Companies shall update his website by updating the status of the Corporate Debtor and specific mention regarding admission of this petition must be notified.

l) The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India ("IBBI") for their record.

m) A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

7. List the matter for further consideration on 27.01.2025.

-sd-

(RAMALINGAM SUDHAKAR)
PRESIDENT

-sd-

(AVINASH KUMAR SRIVASTAVA)
MEMBER (TECHNICAL)

18.12.2024
Ritu Sharma