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NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH  
CHENNAI

(21)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 15.03.2018

PRESENT: SHRI MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

APPLICATION NUMBER :  
PETITION NUMBER : CP/1215/IB/2018  
NAME OF THE PETITIONER : GHCL LTD  
NAME OF THE RESPONDENTS : GB RAJA TOP WEAVING PVT LTD  
UNDER SECTION : 9 RULE 6

S.No.	Name (in Capital)	Represented by	Signature
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① DEV ESTHWAAR J  
For M/s. Shivakumar &  
Suresh

Counsel for Applicant



Mob: No. 9790942396

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SINGLE BENCH, CHENNAI**

CP/1215/IB/2018 filed under Section 9 of  
the Insolvency and Bankruptcy Code, 2016  
r/w Rule 6 of the Insolvency and  
Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016

In the matter of **M/s. GB Raja Top Weaving Private Limited**

**M/s. GHCL Limited**

*... Operational Creditor*

-vs-

**M/s. GB Raja Top Weaving Private Limited**

*... Corporate Debtor*

Order delivered on 15<sup>th</sup> March, 2019

CORAM :

**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

For Operational Creditor : Mr. Dev Eshwaar. J, Counsel  
for M/s. Shivakumar and Suresh

For Corporate Debtor : *Ex parte*

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Adjudication is CP/1215/IB/2018 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w Rule 6 of the Insolvency & Bankruptcy

(Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. As seen from the record, on 07.12.2018 the Counsel for the Operational Creditor has submitted that the notice sent to the Corporate Debtor is returned with an endorsement 'left', and therefore, this Authority directed the Operational Creditor to take substituted service by publication of notice in newspapers, and the case was posted to 11.01.2019. On 11.01.2019, the Counsel for the Operational Creditor has filed proof of publication along with an Affidavit. There was no representation on behalf of the Corporate Debtor and it was proceeded *ex-parte* on 11.01.2019.

3. Heard the Counsel for the Operational Creditor, and perused the record placed on file.

4. The Operational Creditor has claimed an amount of Rs.1,31,79,925/- as outstanding against the Corporate Debtor including interest as on 01.12.2017, which the Corporate Debtor has failed to pay.

5. The brief facts of the case are that both the Operational Creditor and Corporate Debtor are engaged in the business of manufacturing fabric, and in particular, the Corporate Debtor is a grey fabric manufacturer located at Tiruchengode, Tamil Nadu. On consensus terms having common business interest in fabric domain, the Operational Creditor has supplied yarn to Corporate Debtor for converting it into grey fabric as finished material on Job Work basis at agreed commercial terms for each Purchase Order. The Purchase Orders are placed at pages 10 to 17 of the typed set filed with the Application. The Corporate Debtor during each month's end will have to declare the Operational Creditor's stocks lying with them after working out with the opening stock plus receipt deducting dispatches.

6. The Corporate Debtor at the time of ceasing its business activity relationship with the Operational Creditor have not handed over the entire physical stocks that remained with the Corporate Debtor as declared by them. The Corporate Debtor has placed on record the e-mail communication dated 27.10.2016 sent by the Corporate Debtor to the Operational Creditor at page 19 of the typed set filed with the Application confirming the balance outstanding.

7. The Operational Creditor has sent a Demand Notice dated 06.12.2017 in Form -3 under Section 8 of the I&B Code, 2016 to the Corporate Debtor wherein the amount claimed; the details of transaction on account of which debt fell due and the date of default are being mentioned in the notice, which has been delivered. Copy of which is placed at pages 20 to 24 of the typed set filed with the Application. The postal receipts of sending the notice and delivery thereof is placed at pages 25 and 26 of the typed set filed

with the Application, to which no reply was given by the Corporate Debtor.

8. The Operational Creditor has complied with Section 9 (3) (b) & (c) of the I&B Code, 2016, by filing Affidavit, wherein under Para 4, it has been deposed that no notice has been received by the Operational Creditor from the Corporate Debtor relating to a dispute of the unpaid operational debt. The Affidavit is placed as additional typed set filed with the Application. The statement of account certified by IDBI Bank Limited has also been placed on record as additional typed set filed with the Application.

9. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Authority is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt claimed by the Operational Creditor. Therefore, the Application is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered, which

ordinarily shall get completed within 180 days, reckoning from the day this order is passed.


10. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered to prohibit all of the following, namely :-

- (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 action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

11. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

12. Mr. C. Ramasubramaniam is hereby appointed as IRP, as has been proposed by the Operational Creditor. There is no disciplinary proceeding pending against the IRP as is evidenced from Form-2. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed.





13. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the I&B Code, 2016.

14. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016. The e-mail and other details of the IRP are as follows: -

**Mr. C.Ramasubramaniam,**  
Reg. No. IBBI/IPA-002/IP-N00052/2016-2017/10096  
"Srinidhi", G4, RMC Flats,  
No.1, Venkatesapuram Colony,  
Vadapalani, Chennai – 600 026  
Email ID: [fcs.rms@gmail.com](mailto:fcs.rms@gmail.com)  
Mobile No. 98840 68292



15. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the concerned RoC.

16. Order is pronounced in open court in the presence of Counsel for the Operational Creditor.

P. ATHISTAMANI

  
**[CH. MOHD SHARIEF TARIQ]**  
MEMBER (Judicial)