

BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B) No. 29/9/NCLT/AHM/2017

Coram:

Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.06.2017

Name of the Company: Harshad V Vora.
V/s.
Bhagwan Motors Pvt Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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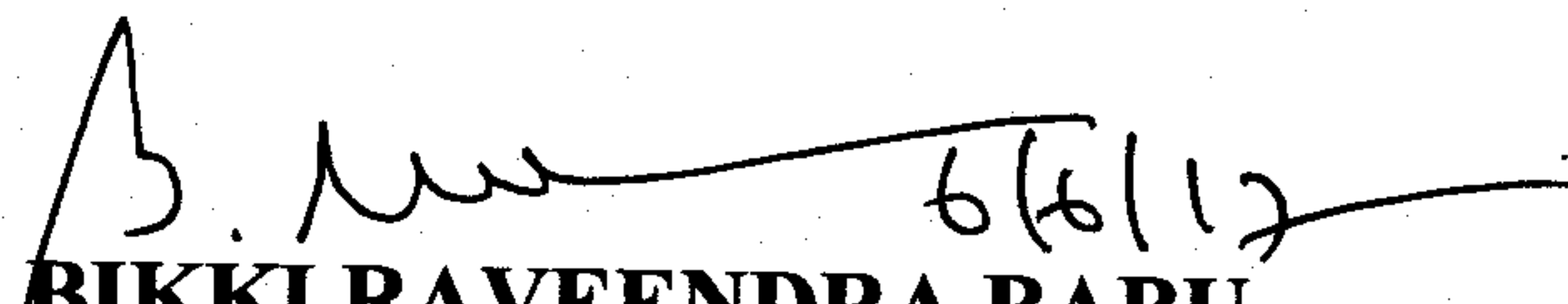
1.

2.

ORDER

None present for both sides.

Order pronounced in open Court. Vide separate sheet.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 6th day of June, 2017.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AMEDABAD BENCH
AHMEDABAD**

CP NO. (IB) 29/9/NCLT/AHM/2017

CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

Date: 6th day of June, 2017

In the matter of:

1. Harshad V. Vora
Proprietor of – Utkarsh Steel Corporation
40, Carnac Siding Road,
Iron Market
Steelyard Building Gate
Mumbai 400 009

: Petitioner
: Operational Creditor

VERSUS

Bhagwan Motors Pvt. Ltd.
101/F, Sector -1, Industrial Area
RD-II, Pithampur, Dhar
Madhya Pradesh – 454 775

: Respondent
: Corporate Debtor

Appearance:

1. Learned advocate Mr. Rajeshwar Gupta with learned advocate Ms. Sumati Sharma present for Operational Creditor/Petitioner.

None present for respondent.



FINAL ORDER
Dated: 06-06-2017

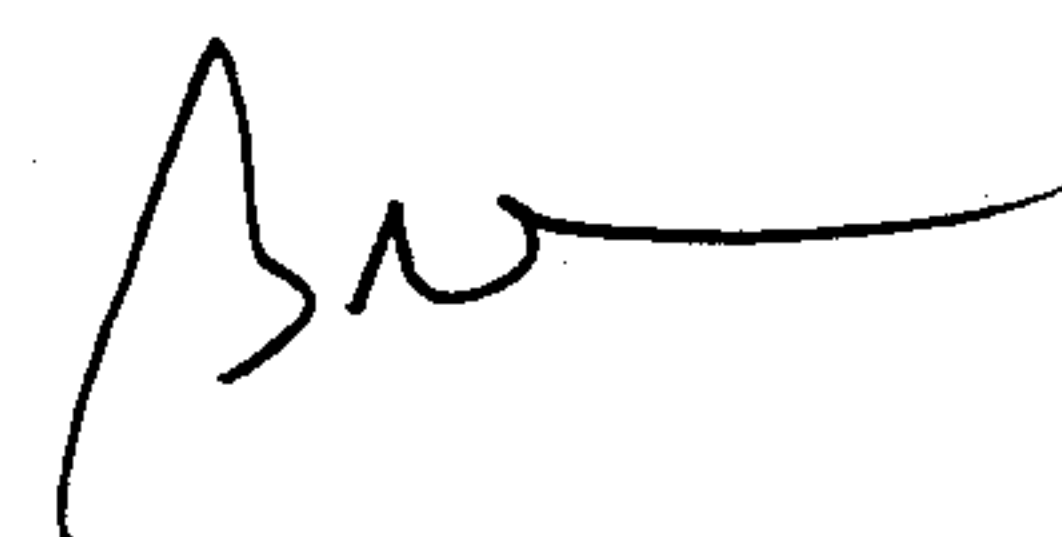
1. Proprietor of Utkarsh Steel Corporation filed this petition under section 9 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 9 of the Code.

2. Petitioner supplied goods worth Rs. Rs. 41,84,270/- to the corporate debtors under the following invoices.

Sl. No.	Invoice No.	Date	Amount Rs.
01	000889	20.03.2014	9,29,505.00
02	000775	13.01.2015	7,43,117.00
03	000047	12.05.2016	6,67,111.00
04	000065	19.05.2016	18,44,537.00
		TOTAL	41,84,270.00

3. Corporate debtors have to pay the amount within one week from the date of invoice and thereafter it is payable with interest @ 30% per annum.

4. Petitioner operational creditors issued demand notice dated 18.04.2017 to the respondent corporate debtors in Form - 3 enclosing copies of invoice demanding the respondent to pay outstanding amount immediately. In the demand notice, petitioner also asked the respondent that he can dispute the



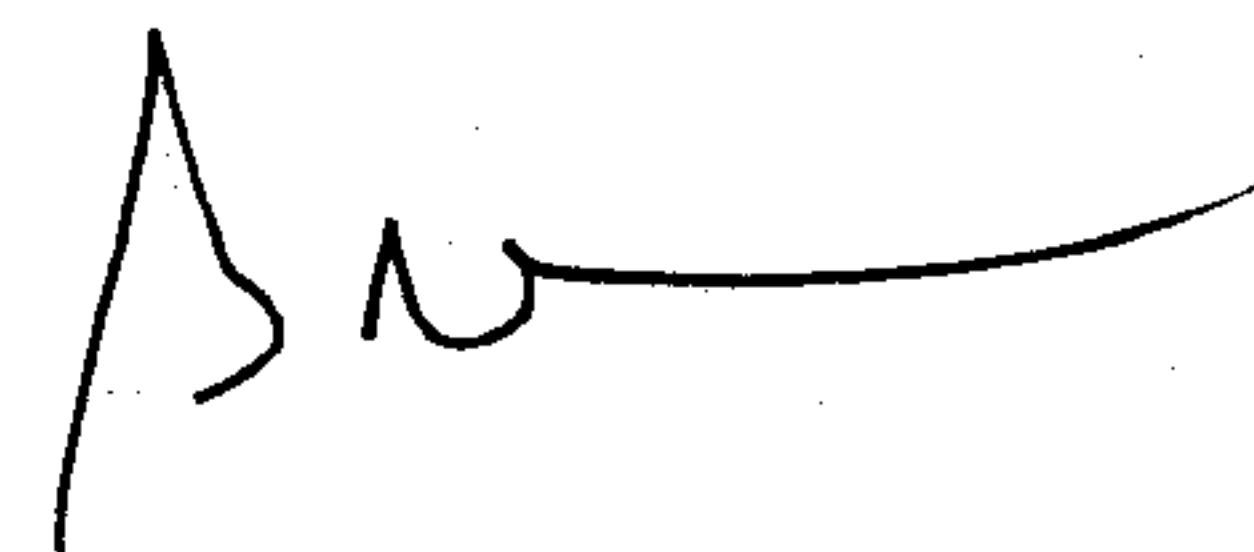
expenses the existence or amount of unpaid operational debt. The said notice was despatched to the respondent on 20.04.2017 and as per the track report it was delivered on 22.04.2017. Thereafter, petitioner filed this petition before this authority on 24.05.2017 after serving a copy of the notice on the respondent by speed post on 20.05.2017.

5. The matter is listed on the Board before this bench for the first time on 26.05.2017. This Tribunal directed petitioner to file acknowledgement of service of notice under section 8 read with rule 5 of Insolvency and Bankruptcy Code and Rules. Petitioner filed the communication given by postal authority stating that the notice was served on 22.04.2017. This Tribunal also directed the petitioner to serve Notice of date of hearing on the respondent and file proof of service. Accordingly, petitioner filed notice of hearing and filed proof of notice. Petitioner filed original written communication given by insolvency resolution professional before this Tribunal on 30.05.2017, however copy of the same is filed along with the petition.
6. On behalf of the petitioner, Mr. Rajeshwar Gupta with Ms. Sumati Sharma, learned advocates argued.
7. A perusal of the petition and the invoice attached to the petitioner clearly goes to show that the petitioner supplied goods to the respondent as per the invoice. Petitioner also filed

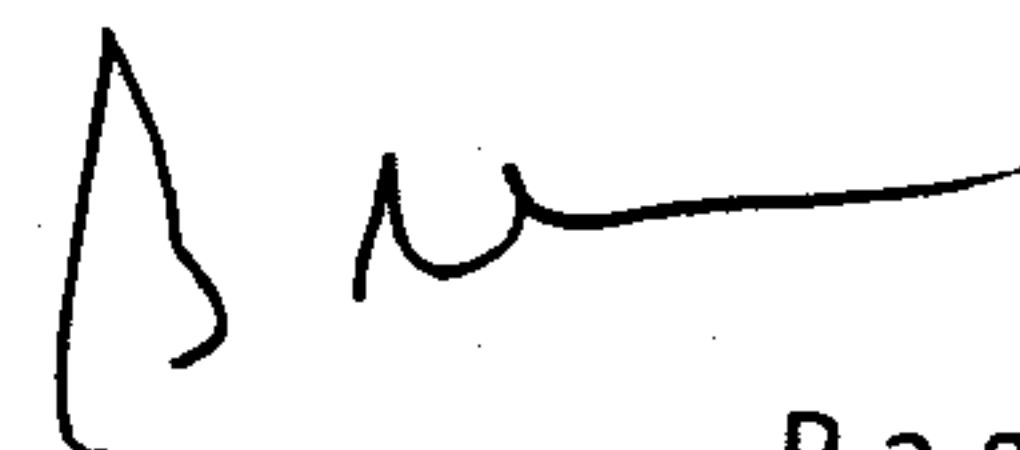


copy of bank statement to show that the amount in invoice is not paid by the corporate debtors. Petitioner also filed registration certificate of the respondent company. From the aforesaid material it is clear that the petitioner as operational creditor and the respondent is corporate debtor. The material on record further clearly show that the amount covered by invoice is due to the operational creditors. 1st invoice is dated 15.03.2014 and the last is dated 19.05.2016.

8. As can be seen from the confirmation of accounts from 01.04.2016 to 31.03.2017 an amount of Rs. 41,84,270/- is outstanding against respondent. Petitioner stated that no notice of dispute has been given by respondent. From the aforesaid material on record it can be said that the debt is due to the operational creditors from the corporate debtor and corporate debtors made default in making repayment of the said debt.
9. Petitioner stated the name of the insolvency professional and filed his written communication. Petitioner also issued demand notice as required by section 8(1) read with Rule 5 of the Rules and served the same on the respondent. There is an occurrence of default in repayment to the operational creditor by corporate debtor and the corporate debtor made default in making repayment of the said debt.



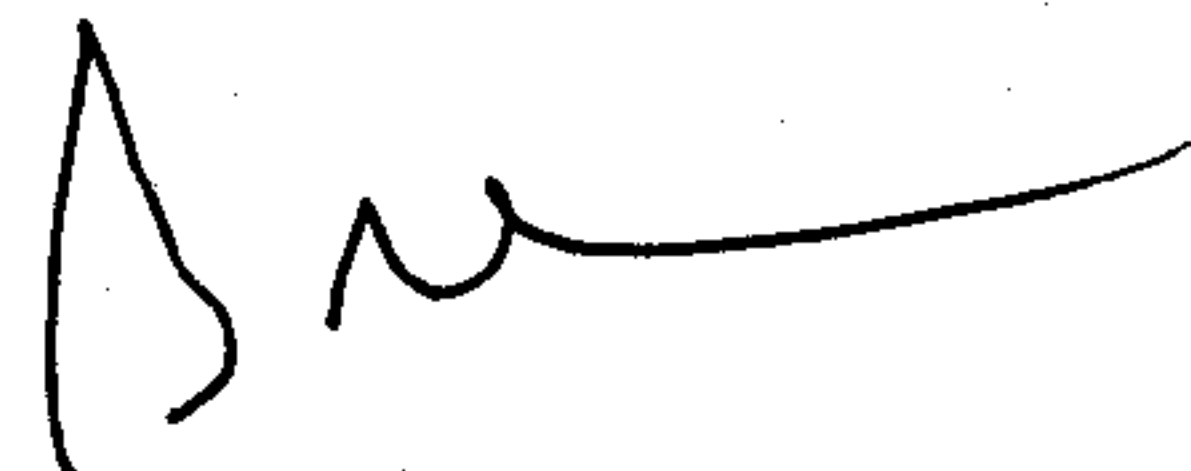
10. Proposed Interim Insolvency Resolution Professional has made a declaration that no disciplinary proceedings pending against him. Hence petition is admitted.
11. In the case on hand petitioner has proposed the name of Mr. Rajesh Lohia, R. Lohia & Co., 414, Manas Bhawan Extn. 11, RNT Marg, Indore 452 001.
12. Adjudicating Authority is appointing Mr. Rajesh Lohia, R. Lohia & Co., 414, Manas Bhawan Extn. 11, RNT Marg, Indore 452 001 as interim resolution professional u/s 13 (1)(b) of the Code.
13. Section 13 of the Code enjoins upon the Adjudicating Authority to exercise its discretion to pass an order to declare a moratorium for the purposes referred to in Section 14, to cause a public announcement of the initiation of corporate insolvency resolution and call for submission of claims as provided under Section 15 of the Code. Sub-section (2) of Section 13 says that public announcement shall be made immediately after the appointment of Interim Insolvency Resolution Professional.
14. Hence, Mr. Rajesh Lohia, R. Lohia & Co., 414, Manas Bhawan Extn. 11, RNT Marg, Indore 452 001 having IP Registration No. IBBI/IPA-002/IP-N00049/2016-17/10093 as interim resolution professional u/s 13 (1)(b) of the Code is appointed as "Interim Insolvency Resolution Professional" who filed Form-2 and



Certificate of Registration issued by the Insolvency and Bankruptcy Board of India. This Adjudicating Authority also directs the operational creditor to make a public announcement in terms of Clause (b) of sub-section (1) of Section 13 of the Code.

15. In view of the commencement of the Insolvency Resolution Process with the admission of this Petition and appointment of the Interim Resolution Professional, this Adjudicating Authority hereby passes the order declaring moratorium under Section 13(1)(a) prohibiting the following as laid down in Section 14 of the Code;

- (i) 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;
- (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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);

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

(a) However, the supply of goods and essential services to the corporate debtor shall not be terminated or suspended or interrupted during moratorium period. The moratorium order in respect of (i), (ii), (iii) and (iv) above shall not apply to the transactions notified by the Central Government.

16. This order of moratorium shall be in force from the date of order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.
17. This Petition is ordered accordingly.
18. Communicate a copy of this order to both parties and to the Interim Insolvency Resolution Professional.


BIKKI RAVEENDRA BABU
ADJUDICATING AUTHORITY
MEMBER JUDICIAL

Pronounced by me in open court on the 6th day of June, 2017.