



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III, NEW DELHI
IB-643(ND)/2022**

Order under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

IN THE MATTER OF:

M/s. R. J. INDUSTRIES

Having Its Registered Office at:

Village, Jamaur, Shahjahanpur,
H.O., Gandhiganj, Uttar Pradesh – 242001.

Through its Partner

Mr. Mukesh Kumar Agarwal

... Applicant/Operational Creditor

Versus

M/s. UNITED FOODS PRIVATE LIMITED

Having Its Registered Office at:

D-6, 3rd Floor, Prashant Vihar,
Rohini, Delhi-110085.

... Respondent/Corporate Debtor

Order Delivered on: 18.10.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Mr. Rahul Singh, Adv.

For the Respondent : ex-parte

ORDER

PER: ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

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1. This Application has been filed by M/s. R. J. Industries, the Applicant/Operational Creditor on 26.02.2022, before this Adjudicating Authority, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC” or “Code”) r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, (“Adjudicating Authority Rules”), for initiating the Corporate Insolvency Resolution Process (“CIRP”) declaring moratorium and for appointment of Interim Resolution Professional (“IRP”) against M/s. United Foods Private Limited, the Respondent/Corporate Debtor on the ground that the Corporate Debtor has defaulted/failed to clear the outstanding amount of Rs. 3,33,29,429/- (Rupees Three Crore Thirty Three Lakh Twenty Nine Thousand Four Hundred Twenty Nine Only) along with interest @ 18% p.a. as on 10.08.2018.
2. The Operational Creditor is a Body incorporated under the provisions of the Indian Partnership Act, 1932 vide Partnership Deed dated 01.07.2003 read with addendum dated 23.10.2020. The Registered Office Address of the Operational Creditor is at Village, Jamaur, Shahjahanpur, H.O., Gandhiganj, Uttar Pradesh - 242001. The Operational Creditor deals in the business of Trading Rice and Food grains, etc.
3. The Corporate Debtor is a Private Company incorporated on 06.12.2010 under the Companies Act, 1956 with the Registrar of Companies, NCT of Delhi and Haryana having CIN:U15313DL2010PTC211098. The Authorized Share Capital of the Corporate Debtor is Rs. 10,00,00,000 (Rupees Ten Crores Only). The Paid-up Share Capital of the Corporate Debtor is Rs. 6,96,88,000/- (Rupees Six Crore Ninety Six Lakh Eighty Eight Thousand Only). The Registered Office Address of the Corporate Debtor is at D-16, 3rd Floor, Prashant Vihar, Rohini, Delhi-110085.
4. The Operational Creditor filed an Application bearing IB-441(ND)/2021 titled as **M/s. R. J. Industries vs. M/s. United Foods Private Limited**

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under Section 9 of IBC, 2016 on 11.08.2021 before this Adjudicating Authority (Court-3). The said Application was dismissed on 16.08.2021 on the ground that the Notice issued under Section 8(1) is found to be defective. Thereafter, the Operational Creditor preferred an appeal before the Hon'ble National Company Law Appellate Tribunal (NCLAT). However, the same was dismissed as withdrawn vide Order dated 20.10.2021 and liberty was granted to the Operational Creditor to file a fresh Petition against the Corporate Debtor. Thus the present Application has been filed.

5. It is the case of the Operational Creditor that in due discharge of the debt, the Corporate debtor issued certain cheques in favour of the Operational Creditor, which were dishonored. The last bill raised by the Operational Creditor on the Corporate Debtor was of Rs. 5,88,644/- towards the sale/supply of material. The last payment received was Rs. 3,00,000/- on 10.08.2018 towards the total outstanding, and thereafter no payment was received from the Corporate Debtor.
6. The Operational Creditor issued a demand notice dated 30.04.2019 under Section 8 of the Code. However, the Operational Creditor made some inadvertent typographical error in the demand notice dated 30.04.2019 and a corrigendum letter dated 21.05.2019 was issued to the Corporate Debtor. After the Hon'ble NCLAT order dated 20.10.2021, the Operational Creditor issued a demand notice dated 30.10.2021 under Section 8 of the Code to the Corporate Debtor. The Operational Creditor served the demand notice to the Corporate Debtor through E-mail only and failed to serve the demand notice through speed post and was unable to produce the speed post service record. No reply to the demand notice/corrigendum letter was received from the Corporate Debtor nor any dispute was raised.
7. Notice was issued to the Corporate Debtor on 05.09.2022 through e-mail and by Speed Post which was returned back with remarks - "Item

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Returned Addressee Left without instructions". Further, the Corporate Debtor has been proceeded ex-parte vide order dated 02.03.2023.

8. We have heard the Ld. Counsel for Operational Creditor and also perused the documents available on record.
9. After perusing the records, it came to the knowledge of this Adjudicating Authority that the demand notice issued in the earlier Section 9 Application (IB-441(ND)/2021) was defective. The Operational Creditor issued a Demand notice subsequent to filing this application which was served through e-mail only.
10. As on date of filing the present application, it appears from the analysis/perusal of the MCA data that the Corporate Debtor is inactive due to default in filing its statutory return for the last two years i.e. from 2016-2017 to 2017-2018. For better understanding, we are extracting the Master data details of the Corporate Debtor:

1/18/22, 1:10 PM

Company Master Data

ANNEXURE - 2

Company Master Data

CIN	U15313DL2010PTC211098
Company Name	UNITED FOODS PRIVATE LIMITED
ROC Code	RoC-Delhi
Registration Number	211098
Company Category	Company limited by Shares
Company SubCategory	Non-govt company
Class of Company	Private
Authorised Capital(Rs)	100000000
Paid up Capital(Rs)	69688000
Number of Members(Applicable in case of company without Share Capital)	0
Date of Incorporation	06/12/2010
Registered Address	D-16, 3rd Floor Prashant Vihar, Rohini Delhi DL 110085 IN
Address other than R/o where all or any books of account and papers are maintained	-
Email Id	unitedfoods.del@gmail.com
Whether Listed or not	Unlisted
ACTIVE compliance	ACTIVE Non-Compliant
Companies Present filing status (defaulted in filing its statutory returns for the last two years i.e. 16-17 and 17-18)	INACTIVE
Suspended at stock exchange	-
Date of last AGM	30/09/2016
Date of Balance Sheet	31/03/2016
Company Status(for efilling)	Active

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11. It seems that there are no business opportunities left for the Corporate Debtor and the prospect of future business also seems bleak thus there seems no possibility of reviving the Company, if the Corporate Debtor is put in the CIRP for its revival/resolution. Moreover, in the due course of the hearing, the counsel appearing for the Operational Creditor failed to apprise this Adjudicating Authority regarding the current status of the Corporate Debtor. Further, this Adjudicating Authority is of the view that initiating CIRP against the Corporate Debtor is not in the interest of its stakeholders, because the Corporate Debtor is inactive. Therefore, without going into the merits of this case, as required under Section 9 of the Code, this Adjudicating Authority dismisses this application, as there is hardly any possibility of any Resolution plan likely to be received if the CIRP is initiated against the Corporate Debtor.

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

i. The Application bearing **IB-643/ND/2022** filed by the Applicant under Section 9 of the Code r/w Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Respondent is **dismissed.**

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

No order as to costs.

-SD-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

-SD-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**